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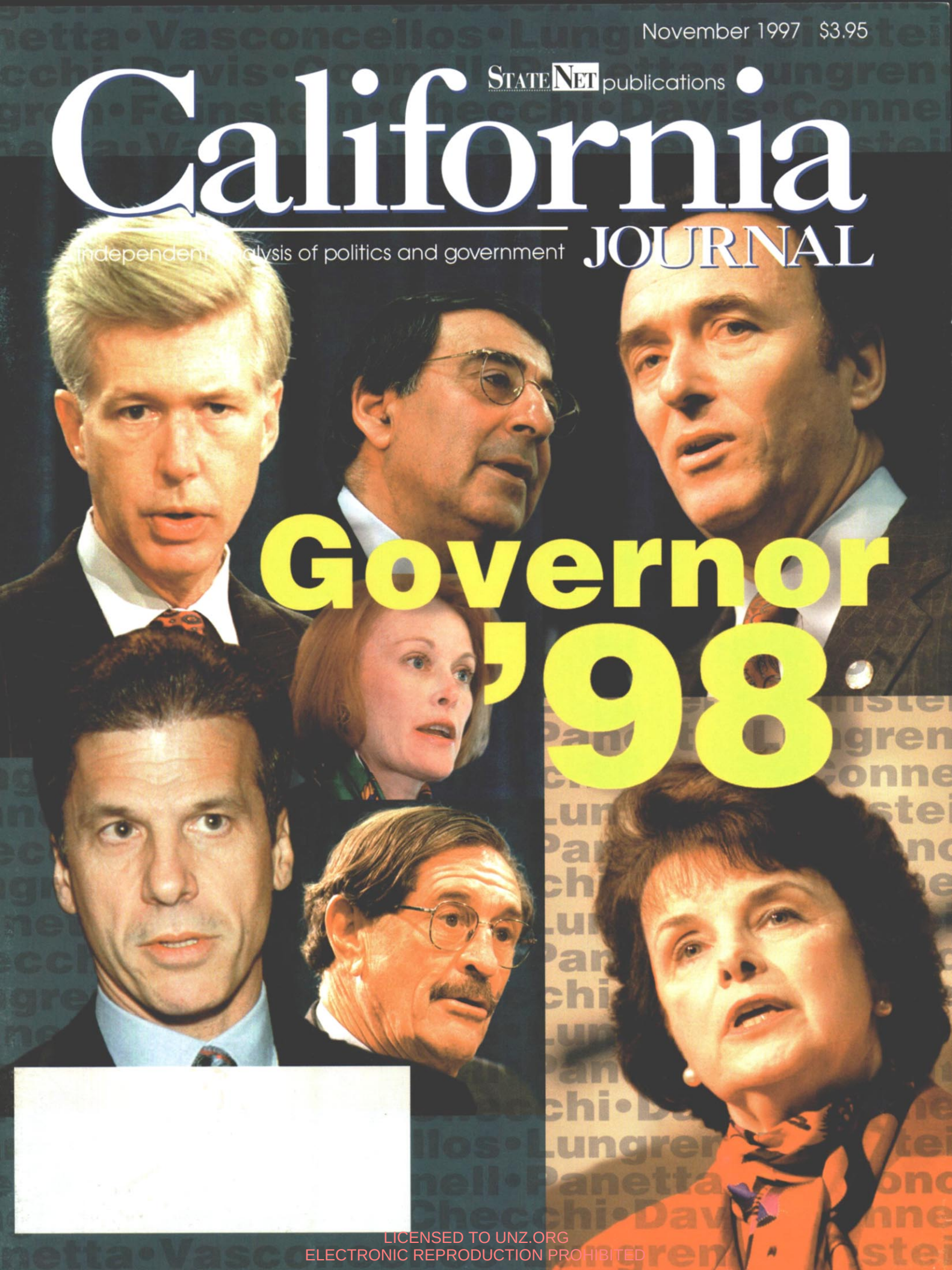

Governor '98

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November 1997
VOLUME XXVIII, NUMBER 11

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6 **The Race for Governor**
Positioning for the '98 campaign is proceeding, but everyone involved is waiting to see if Dianne Feinstein's hat will land in or out of the ring.
By Steve Scott

14 **Local Access**
Energy deregulation has prompted many local governments to consider how to keep the restructuring from costing them money. Also, the A-B-C's of implementing deregulation.
By Peter Asmus

20 **Ronald George**
The chief justice of California's Supreme Court could become the next political lightning rod for social conservatives.
By Bob Egelko

21 **Anthony Kennedy**
The U.S. Supreme Court's lone Californian has become a crucial swing vote on many of the high court's most celebrated split decisions.
By Carl Cannon

28 **Diversity at U.C.**
Minority admissions at several of the University of California's professional schools have declined, reigniting the battle over affirmative action.
By Melanie Smith

42 **Negative Campaigning**
In an excerpt from his new book, veteran political consultant Victor Kamber says negative campaigns are a necessary evil, but some have gone too far.
By Victor Kamber

CONTENTS

Up Front 4
Southern Exposure 36
The Bottom Line 41
Rostrum 46
Washington Perspective 48

COVER

Photography by Rich Pedroncelli
Design by Dagmar Thompson

Pictured clockwise starting top left: Gray Davis, Leon Panetta, Dan Lungren, Dianne Feinstein, John Vasconcellos, Al Checchi, Kathleen Connell (middle).

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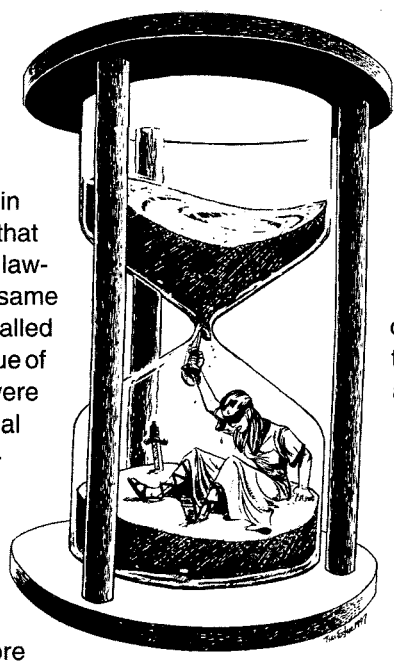
Upfront umbrage

Executive privilege. When major court decisions are announced, such as this past month's ruling on term limits (see story, below), it has become customary for politicians who identify themselves with those cases to pile into the state Capitol press room, either to praise the justice system or denounce judicial activism and/or leniency. When more than one politician wants to occupy the same soapbox at the same time, it's sometimes fun to stand back and watch the egos at work. Shortly after the term-limit decision, Secretary of State Bill Jones announced he'd be coming into the press room to say his piece. A short time later, Governor Pete Wilson indicated he'd join Jones. Just before Jones arrived, one of his press aides went up to the podium and hung on it the seal of California. Jones likes to have the seal around when he talks to the press. Almost instantaneously, as if staged for a gag, one of Wilson's press aides walked in and not only removed Jones' seal but wheeled the entire podium out of the way. In its place was rolled the snazzy, gubernatorial podium which has the plush upholstery and gubernatorial seal already on it. Dirty looks were exchanged, and one of the reporters on the scene (doubtless a psych major in college) summed it up this way: A clear case of "podium envy."

Disingenuity watch. The "War of the Press Releases" which accompanied the end of the legislative session produced some interesting exercises in rhetorical license. Governor Wilson and both Republican caucus leaders faxed out releases taking credit for the passage of the massive tax-cut package which was the major achievement of the year. Only one of the three even mentioned the role that former GOP Assembly Leader Curt Pringle played in crafting the "mega-deal," and needless to say, none recognized the role of Senate President Pro Tempore Bill Lockyer (D-Hayward). But the real champ of the lot came from Democratic Assembly Speaker Cruz Bustamante (D-Fresno). While Bustamante's release is careful to direct its congrats to "the Legislature," the closing line is a real winner: "it's nice ... to be in a position to give something back to those who have sacrificed through tough times." The release fails to mention that, had Bustamante had his way, the Legislature would have given nothing back but another year of gridlock. It was Bustamante who kept bollixing up the mega-deal at every turn, either through

Term-inology.



For some, it was the political equivalent of being asked to "Come on down" on "The Price Is Right." On a two-to-one vote, a federal appeals court struck down the legislative term limits embodied in 1990's Proposition 140. The court ruled that voters weren't aware that termed out lawmakers were banned from seeking the same office for the rest of their lives. The so-called "lifetime ban" figured to be the central issue of the case, but most court watchers were surprised at the tack the court took. Legal experts suggest the backhanded approach was aimed at dissuading the U.S. Supreme Court from taking up the case. The high court may still consider overturning the decision, but as it stands now, the big winners are the big leaders — Senate President Pro Tempore Bill Lockyer (D-Hayward) and Assembly Speaker Cruz Bustamante (D-Fresno). Both would have been termed out under Proposition 140. If it stands, the court's ruling presents something of a quandary for anyone charged with the task of writing a smart-alecky column. On the one hand, there is the delicious prospect of watching grown men and women cry and squirm. All those political leaders who hopped on the bandwagon after the tune had played and shouted "Me, too!" must now decide between hypocrisy and unemployment. But the whole *mise en scene* would be a lot more fun if the decision itself hadn't been such a monstrous cop out. There were legitimate constitutional questions to be addressed about its provision for a lifetime ban. It's not too much for citizens to expect that a federal appelate court wrestle seriously with those issues and make its decision without regard for where it might end up. Instead, what citizens got was cutesy sleight-of-hand — a decision clearly crafted to avoid giving the Supreme Court a substantive excuse to take the case. All in all, a decision that demeans the court that issued it, patronizes the institution most affected by it (the Legislature), and insults the citizens who voted term limits into law. Everyone deserved better — even those who are overjoyed by the end result.

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mischief or simple paralysis. It was Bustamante who continued to diss the deal into the wee hours of the last day of session, even as Lockyer and Pringle were essentially taking over his floor. And it was Bustamante who had to back and fill as his own caucus deserted him one by one.

Look to the rainbow. Anyone looking for a clear, consistent message from the Republican Party about where it stands on issues related to race and ethnicity didn't find it at September's state party convention in Anaheim. Although "diversity" was one of the themes of the convention, the party faithful still managed to overrule their leaders and endorse an initiative banning all bilingual education — an action not exactly guaranteed to please already leery Latinos. Keynoting an "Ethnic Diversity" workshop, Attorney General Dan Lungren — the presumptive gubernatorial nominee — characterized his party's problems with minorities largely as a matter of tactics, cured by simply doing better outreach. But the real highlight of the party's tribute to diversity was its choice to keynote the "Pride in Diversity" breakfast: Representative Helen Chennoweth (R-Idaho). Chennoweth is a right-wing conservative who has, at times, expressed a measure of sympathy for elements of the militia movement, and was once quoted as saying white males are "an endangered species." Some in the party have suggested the GOP cut back to one state convention per year, rather than the current two. You've got to believe that Democrats wish they'd hold one every month.

Who do you trust? A recent Field Poll about Californians' attitudes toward major societal institutions provides some food for thought. The poll developed an "trust" index which gauged the degree of confidence Californians have about 28 different institutions, in both the public and private sectors. Californians apparently have a lot of faith in high tech, as companies dealing in high technology ranked the highest. Research scientists, police, universities and NASA rounded out the top five. Not surprisingly, insurance companies and the legal profession were at the bottom of the Trust-O-Meter, along with the criminal justice system, oil companies and state government. A couple of other items jump out of the survey, though. Californians apparently feel pretty good about their gas and electric companies, ranking them ahead of all government institutions except the military and NASA. And the FBI was also rated more favorably than unfavorably, despite a barrage of unwanted criticism heaped upon the agency by Congress. In fact, the FBI's trust rating was nearly twice that of Congress, and more than twice that of the newspapers reporting on Congress. Another worrisome trend — Californians gave one of the lower rankings to the state's public school system, which ranked below health maintenance organizations, labor unions and TV news. They did, however, rate better than the state government that provides most of their funding.

Judicial independence. It looks like the Orange County judge who awarded O.J. Simpson custody of his children will keep her seat after all. A Los Angeles women's group — the Women's Progressive Alliance — failed to gather the 138,000 signatures it would have needed to force a recall election on Superior Court Judge Nancy Wieben Stock. Organizers say they fell "just short" of the mark. Stock's supporters say the recall effort threatened the independence of the judiciary, since Stock's decisions were within the law. Recall organizers plan to initiate a project called "Judge Watch" to monitor family law cases in Orange County. It will be interesting to see how "Judge Watch" and the Women's Progressive Alliance come down on another judicial question of the day — whether Supreme Court Chief Justice Ronald George should be denied reconfirmation (see story, page 20). After all, the campaign against George is based largely on the substance of a decision he made with respect to abortion rights. Will these same groups argue that George needs to be confirmed to protect "an independent judiciary?" And if they do, does that mean that an independent judiciary is only valuable if it makes decisions we like?

"Liberty don't work as good in practice as it does in speeches."
— Will Rogers

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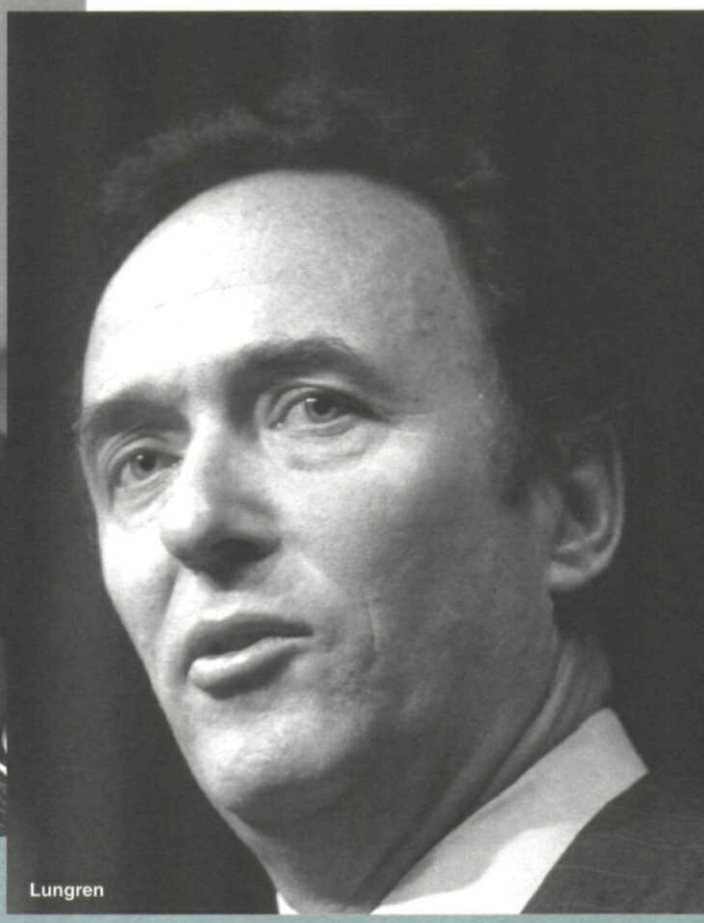
Davis



Lungren

Photos by Rich Pedroncelli

The waiting game

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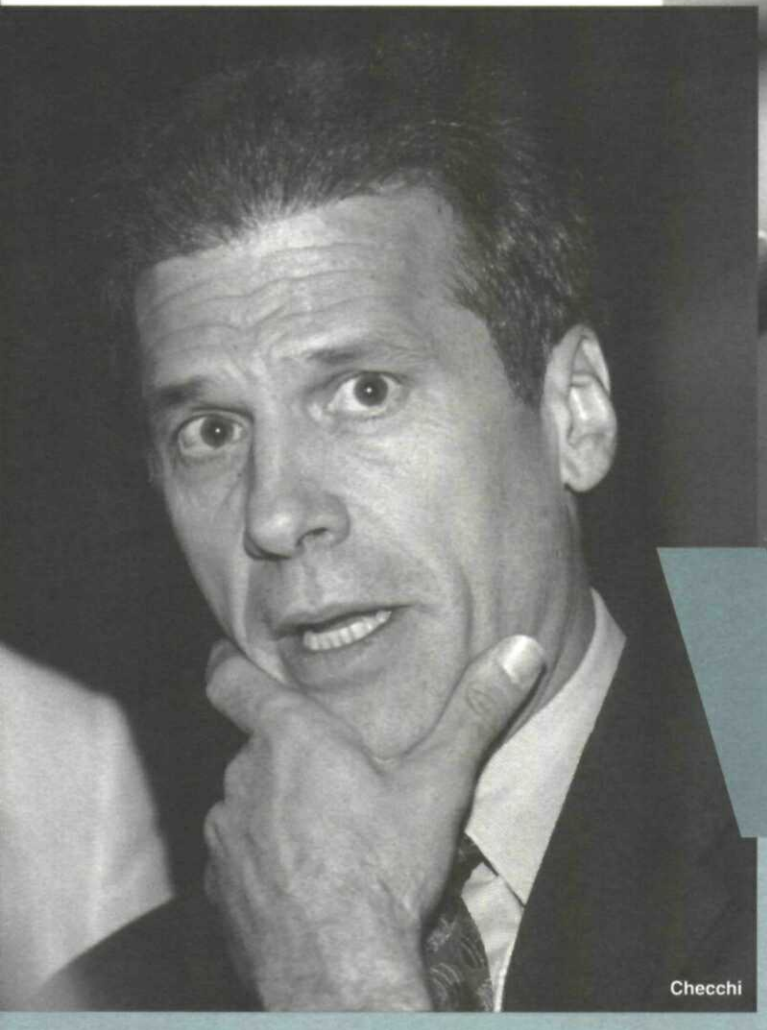
ELECTION '98



Checchi

Feinstein

Would-be front runner Dianne Feinstein still hasn't said if she's in or out of the 1998 gubernatorial race. Feinstein's tease leaves the Democrats up in the air as to who will ultimately compete for the right to face Dan Lungren in the fall.

by Steve Scott

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Panetta

"Will she or won't she?"

It's a question that, in various contexts, has followed Dianne Feinstein throughout much of her recent political history. Eight years ago, at roughly this stage in the election cycle, Feinstein's naiscent gubernatorial hopes seemed dashed. Still recovering from major surgery, she had been publicly, and unceremoniously "fired" by her political consultant, Clint Reilly. Despite her repeated insistence that she was in the race to stay, many political insiders wondered: "Will she or won't she go through with it?" She did, and eventually won the Democratic gubernorial nomination, losing by a whisker in the general election to Pete Wilson.

In 1997, the same question surrounds the issue of Feinstein's future. But unlike 1989, she considers the question not from the perspective of a weakened candidate trying to recover, but a front runner looking for new worlds to conquer. Statewide polling, including an October *Los Angeles Times* poll, showed California's senior senator as the early leader among the prospective candidates for governor. The former San Franscisco mayor not only leads all Democratic comers, but is also ahead of the almost certain Republican nominee, Attorney General Dan Lungren. Yet she remains almost defiantly mum on the question of whether or not she will make the campaign. As a result, the political question of the election season to this point is not "who will win?" or even what will happen in the court battles over campaign contribution limits and the open primary.

The question of the moment is: "Will she or won't she run?"

The people for whom the answer to the question means the most at this point are the six other people generally viewed as being the current gubernatorial field. In addition to a front runner who hasn'yet decided, the race at this stage also features a super-rich corporate executive running as a Democrat (Al Checchi) and a medical marijuana distributor running as a Republican (Dennis Peron). Also in the mix are three highly ambitious statewide officers (Lungren, Lieutenant Governor Gray Davis, and state Controller Kathleen Connell), a former White House chief of staff (Leon Panetta), and a state senator best known for having been the founder of a state commission on self-esteem (John Vasconcellos).

Of the announced contenders as of this writing, the best known is Gray Davis. Elected lieutenant governor in 1994 after two terms as state controller, Davis also served two terms in the state Assembly. He was a driving force behind the now-ubiquitous effort to put the pictures of missing children on milk cartons. Among other things, Davis is the only candidate who also is a Vietnam veteran, and the only one to have actually served as governor, filling in as acting governor during some of Governor Pete Wilson's trips out of state.

Davis has a reputation for over-arching ambition, resulting in some visible missteps. Early in his career, Davis vowed not to use either the milk carton legislation or his Vietnam service in his political campaigns, yet both have made their way into his advertising in past races. Davis' biggest fiasco came in his unsuccessful primary campaign against Feinstein in the 1992 U.S. Senate race. A commercial from that race comparing Feinstein to tax-evading hotelier Leona Helmsley was widely considered below the belt. Republicans, meanwhile, zero in on his history as the former chief of staff to Governor Jerry Brown. The "Governor Moonbeam" connection plays well with the GOP faithful, but so far it hasn't hurt him, and some Republicans say their party dismisses him at

Connell

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their peril.

"I tend to think that Gray is underrated," said one Republican strategist. "He has experience, and that counts for a lot in a race like this."

Another thing that counts for a lot is money, and Davis had plenty of that in the early going. But the hands-down winner in the financial sweepstakes is Al Checchi. Worth roughly half a billion dollars, the former chairman of Northwest Airlines doesn't have to chase money — he's already caught it (see "Al Checchi's Will to Power," *CJ*, August 1997). In formally announcing his candidacy in late September in Sacramento, Checchi made it clear he intends to run the sort of "Mr. Fix-It Outsider" campaign that has characterized candidates making a rapid transition from the private to the public sector.

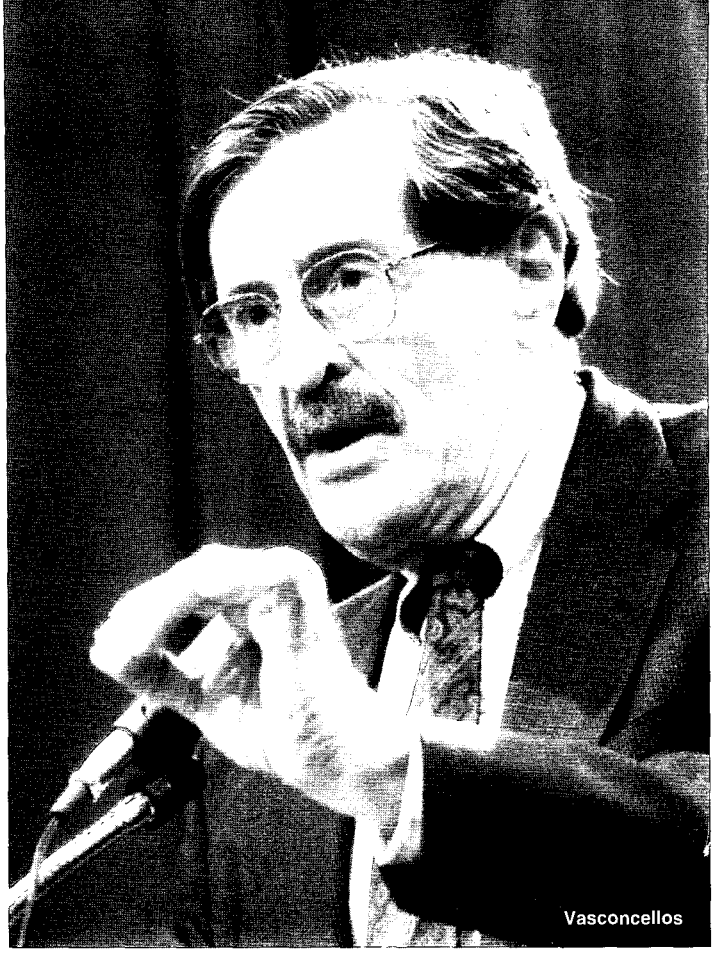
Checchi's use of personal wealth to leapfrog the slower, more conventional road to the governorship has prompted comparisons with 1994 U.S. Senate candidate Michael Huffington, whose $30 million self-funded campaign came within a whisker of unseating Feinstein. By most accounts, Checchi is rated more articulate and thoughtful than Huffington, but his decision to shoot straight to the top puts his mistakes into the full glare of the spotligtht. His spring appearance before the state Capitol press corps resulted in an uncomfortable back-and-fill on whether he had voted in presidential and gubernatorial elections. Turns out Checchi hasn't voted in any of the primaries since he's been in California, and he skipped the 1994 election altogether. "I was busy running an airline," Checchi says in explanation. Checchi's history as a corporate buyout specialist could also prove troublesome among Democratic primary voters, which tend to be more liberal than the general electorate.

Of the four Democrats who are still on the fence as to whether or not they will run, the one who appears closest to entering the race is Senator John Vasconcellos (D-San Jose). A veteran of more than 30 years in the Legislature, the founder of the national self-esteem movement defies easy categorization — a vocal liberal on most social issues, he nonetheless has close ties to the Silicon Valley businesses whom he has represented throughout his career. His exploratory committee covers a broad spectrum, from liberals like Representative Maxine Waters (D-Los Angeles) to independent state Senator Quentin Kopp of San Francisco.

Vasconcellos' liberalism has prompted comparisons between his campaign and the 1994 primary effort mounted by state Senator Tom Hayden (D-Los Angeles). The comparison is enhanced by the former's intention to get on the ballot through petition signatures, rather than by paying a fee to enter the race. Vasconcellos insists Hayden's campaign was not "in my thinking," and makes it clear that, unlike Hayden, he is not in the campaign to make a statement, saying he might not run if he doesn't have the petition signatures and at least a half-million dollars on hand by Thanksgiving.

"I've been in the 'belly of the beast' for 30 years," said Vasconcellos. "I feel I'm ready."

The two Democrats considered least likely to make the campaign are Connell and Panetta. Panetta, who represented the Monterey area in Congress before he moved into the Clinton White House, is a well-liked figure in Democratic circles, and his political skills are not insignificant. Some



Vasconcellos

observers, however, wonder if he could make the transition from national to statewide politics — one observer who knows him suggested Panetta hadn't yet gotten his "California legs." He also could be hurt by recent allegations about White House fund-raising practices. Connell, the first-term controller, says she'll run for re-election if Feinstein enters the race. "I really feel that Dianne as a senior statesperson should have an opportunity," Connell said. Connell does carry baggage from some missteps during her first term as controller. But if Feinstein does not run, Connell says her background and her standing as the only woman in the field make a run for governor inviting.

"I'm a fiscal conservative and a progressive on social issues," she said. "In any open primary, I would have a benefit."

And what of Feinstein? Well, for someone who clearly holds a lot of good cards, the senior senator from California is keeping a remarkably straight poker face. The response most often heard from the Feinstein camp is that she's genuinely undecided. "There's no plot to postpone the decision for any particular reason," said her spokeswoman, Susan Kennedy. "She is genuinely focused on her job in the Senate." Kennedy concedes Feinstein is more comfortable with the job than she was initially, a fact echoed by Feinstein herself in an interview with Mark Sandalow, *San Francisco Chronicle* Washington reporter and Washington columnist for *California Journal*. "I actually like the Senate much more now than I did initially," said Feinstein. Still, the lure of the state's top job is "very, very attractive" to Feinstein, who lost her 1990 gubernatorial bid by only 3 percent to Pete Wilson.

"I go back to California and the moment the plane lands — I'm home," Feinstein said. "It's the place of my birth — it's

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been everything for me and my family."

So what makes it such a tough call? Well, for one thing there's the competition. When Pete Wilson decided to run for governor in 1990, the GOP cleared the field for him. Feinstein would have no such luxury, facing at least two well-funded opponents, both of whom would invariably make her the focus of their attention. Davis' past history suggests he'd show little respect for Feinstein's "senior stateswoman" status. Checchi, meanwhile, represents an even more ominous threat — an unknown with lots of money, like Michael Huffington. Been there ... done that. And if she should survive the primary, her reward is another grueling campaign, this one against Lungren.

> There's no plot to postpone the decision for any particular reason. She is genuinely focused on the job in the Senate.
>
> — Susan Kennedy
> Feinstein Press Secretary

Feinstein's campaign could be further complicated by the campaign reform initiative Proposition 208, if it survives a court challenge. Although she has raised money under federal contribution limits, and most of her 1990 race was conducted under campaign limits, Feinstein's tardiness in entering the race could put her behind the "eight ball" with Proposition 208's campaign contribution limits. Beyond those tactical considerations, though, is the simple question of how another statewide race would affect a political career that has just start to hit a groove.

"This is someone who has run statewide in three of the last four election cycles," said one veteran of statewide races. "That takes its toll."

Yet, with all those caveats, Feinstein's advocates and adversaries alike say she would be a formidable opponent were she to enter the race. Most polls continue to show her as the most popular of the state's three current major statewide office holders (the other two being Wilson and U.S. Senator Barbara Boxer). The fact that she would likely be the only woman in the race is also a natural advantage in a Democratic primary, and the prospect of an open primary could also give her access to moderate independent and Republican women, who helped propel her to the Senate in 1992. Moreover, Feinstein has been tested in the glare of the top of the ticket, and has won two out of three times.

Her potential as a candidate has many Democrats anxious for her to make a decision sooner rather than later. "I told her I'm with you if you decide to run," said one state lawmaker who recently talked to Feinstein. "I also told her to hurry up and get with it." The urgings of her party notwithstanding, Feinstein clearly sees no hurry to decide. "Consider where things were last time," noted one Democratic campaign veteran. "At this point in the campaign, Clint [campaign consultant Clint Reilly] had left, and she was dead in the water. She really didn't start to move until February."

"There's not this great need [for her] to go out and be defined," said one booster. "People know she's this tough person on crime, who's taken on the [National Rifle Association], and is pro-choice. There's no great need to be out in that fray."

So will she or won't she? Well, her recent talk of liking the Senate notwithstanding, the consensus among those who've talked with her ranges from "genuinely undecided" to "leaning toward running" — at least as it stands now. The Checchi campaign says its "operating assumptions" include Feinstein as a candidate, telling since it is being run by Darry Sragow, the man who guided Feinstein's 1990 gubernatorial bid. Sragow insists his campaign has no inside knowledge about what Feinstein will do, although the two campaigns have agreed to a mutual "cease fire" until Feinstein decides whether she's in or out.

"I think she goes," said one insider who asked not to be identified. "She's born and raised in California ... and wants to bring California back. If she wanted to end it, she'd just end it."

Waiting in the wings for whichever Democrat emerges is Lungren, the two-term attorney general and former congressman. The only announced primary opposition comes from Dennis Peron, the owner and operator of San Francisco's Cannabis Buyer's Club. Lungren's opposition to last year's successful medical marijuana initiative, Proposition 215, prompted Peron's decision to enter the race. Although he vows to hit the hustings hard, Peron doesn't figure to dent Lungren much among Republicans. But that doesn't mean Lungren has the luxury of sitting on the sidelines, especially if the state's new open primary law is upheld in court.

"The open primary is like a test run," noted Davis campaign manager Garry South. "If Lungren finishes with the third-highest vote total, he's going to be in real trouble."

Lungren partisans dismiss the speculation about how their candidate would fare in an open primary. "He's already drawing 15 to 20 percent of the Democratic vote in the polling, and that will only go up," said Steve Merksamer, a friend and advisor of Lungren's and the man who ran George Deukmejian's successful 1986 gubernatorial campaign. However, Lungren's team may not be able to sit too quietly. As the presumptive nominee, he has already become a target for the Democrats, who have branded him an extreme right-winger. Even in a closed primary, Lungren may have to spend some resources to counteract the assault. His campaign hints it might even seek to have him included in any debates involving the Democratic primary candidates.

"Will we be invisible before the primary? No," maintained Lungren spokesman Dave Puglia.

Lungren has also put himself behind an ambitious grass-roots organizing effort aimed at mobilizing more than 100,000 volunteers on behalf of the GOP ticket. Lungren's interest in the grass roots is personal, as he hasn't forgotten the 29,000 vote margin by which he squeaked into the attorney general's office in 1990. Campaigns, of course, do not live on grass roots alone. Lungren has been aggressively fund raising, aided by Wilson's willingness to turn over his entire fund-raising operation to the attorney general. While there are still whiffs of tension between the Wilson and Lungren teams, the two principals have worked hard to keep whatever disagreements they might have behind closed doors. No matter how hard they try to keep on their program, though, Republicans are watching the Democratic contest with keen interest.

And so, like everyone else involved with politics, the GOP is on the Feinstein watch.

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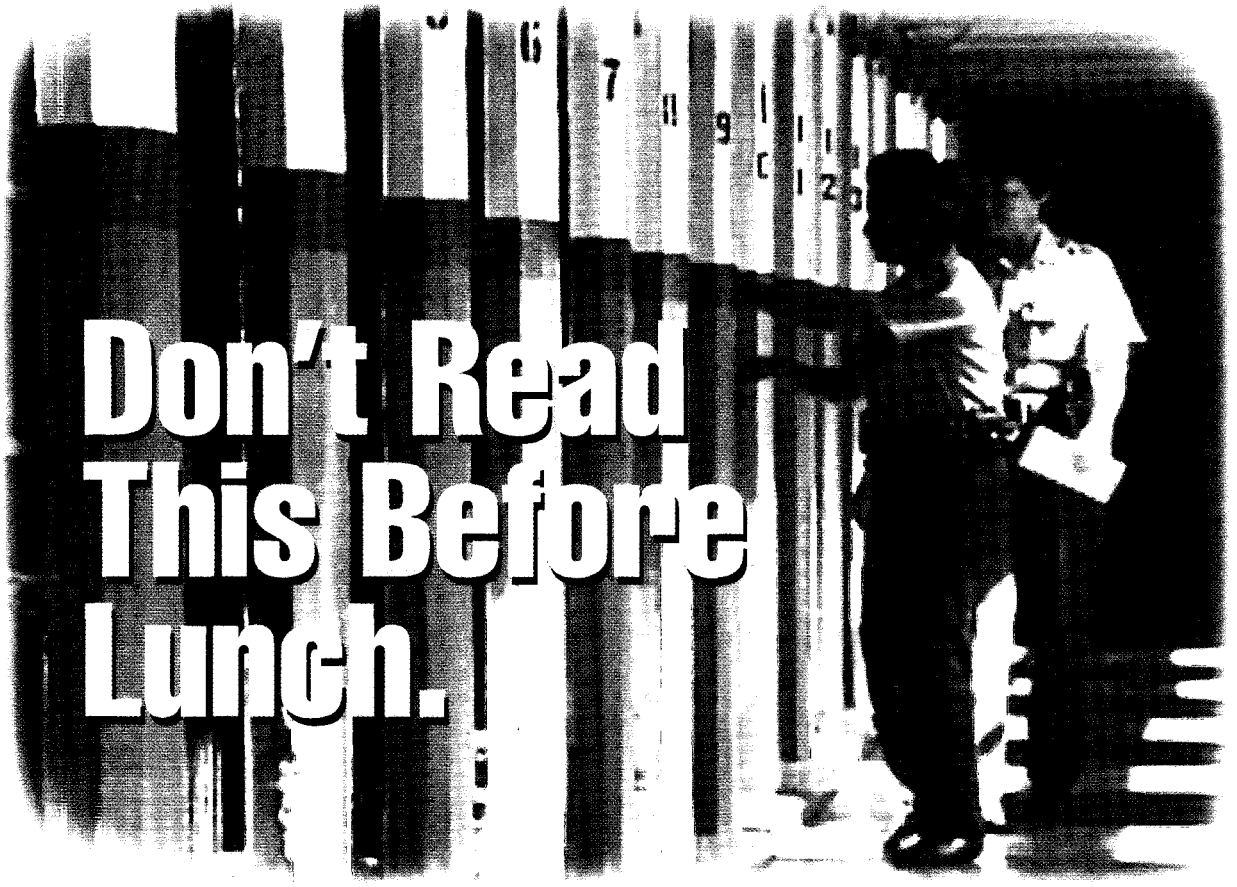

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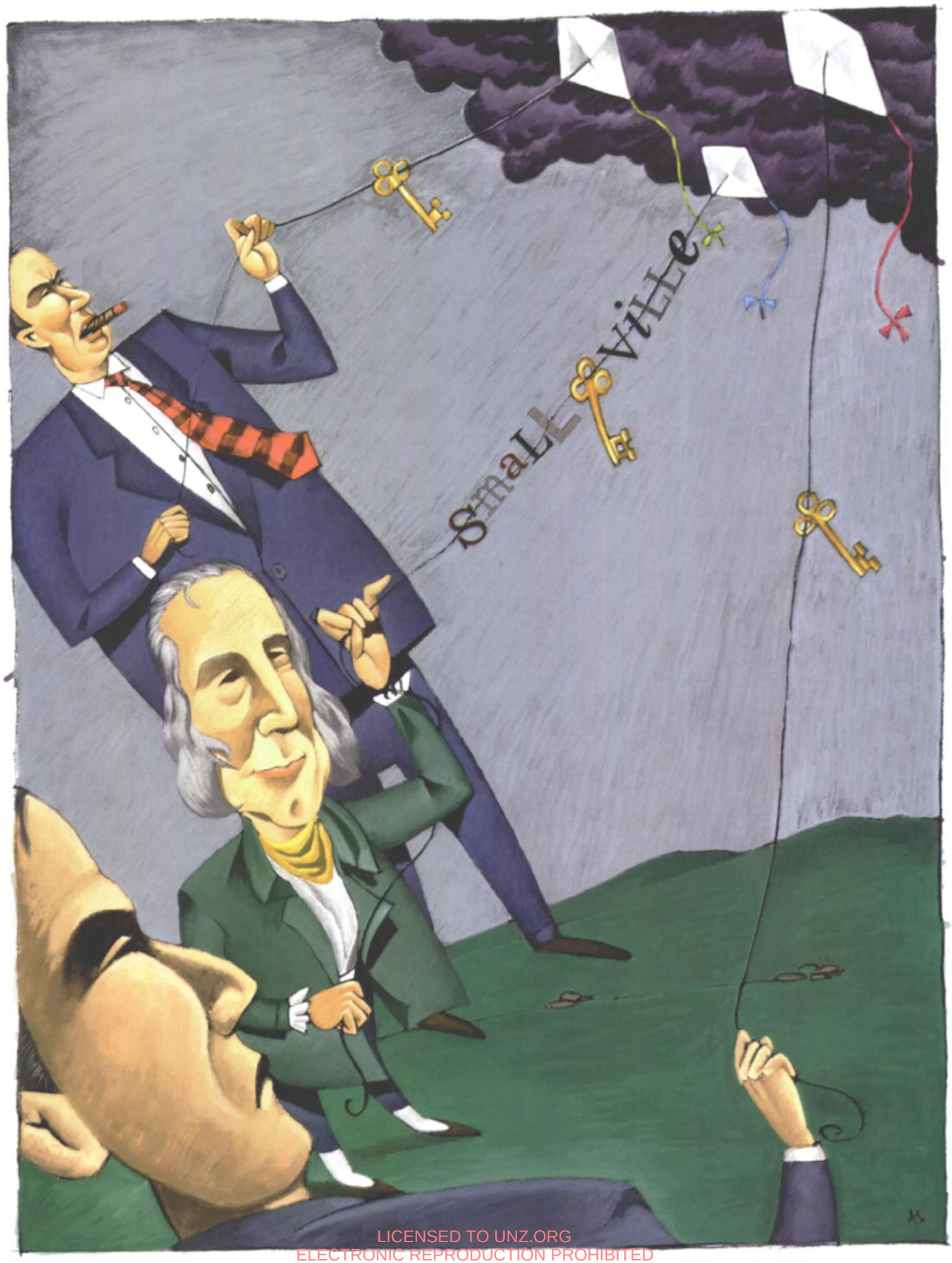

Illustration by Anthony Strom

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Local access

As electricity deregulation moves out of legislation and into reality, local governments are looking at ways to make the new system work for them. Are local governments the sleeping giants of electricity restructuring?

By Peter Asmus

It was the $700 per month electricity bills for his closed restaurant that prompted Art Lyons to jump into the debate over how best to reform California's electric utility industry.

Lyons, whose business was located in Palm Springs, was told by his monopoly supplier — Southern California Edison — that the high charges were necessary because of the amount of power needed to run all of his lighting and appliances if he happened to turn on the switch. "I kept telling them it wasn't even open anymore," remarked Lyons. The more he learned about the arcane business of generating, transmitting and distributing this invisible substance of electricity, the more outraged he became. His ire and persistence helped vault Palm Springs into the national limelight with a unique proposal to make

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Most politicians are cowards and not too bright. Their attention spans are limited ... When surrounding communities here in the desert find out that our power bills in Palm Springs are 25 percent less than theirs in the summer, there's going to be hell to pay.

— Art Lyons

his city its own power provider. His efforts highlight the role local governments can play in bringing the benefits of competition to Californians residing in the nation's largest power market.

"It is up to cities and counties to educate the public and become leaders in the new competitive electricity marketplace in order to bring rate relief to their constituents," said Lyons, who also once served on the Palm Springs City Council. The horde of private sector power sellers "will avoid market segments, such as senior citizens, which don't use a lot of electricity. A local government, on the other hand, has the trust of its constituents," added Lyons.

Though he is pleased with the progress Palm Springs is making in arranging for new and cheaper electricity supplies from an affiliate of Portland General Corporation of Oregon, he also is clearly frustrated dealing with other local government officials. "Most politicians are cowards and not too bright. Their attention spans are limited," lamented Lyons. He warned that if local elected officials continued to exhibit a lack of courage in addressing the opportunities associated with utility restructuring, the voters ultimately will speak loudly and clearly. "When surrounding communities here in the desert find out that our power bills in Palm Springs are 25 percent less than theirs in the summer, there's going to be hell to pay," he concluded.

Just over a year ago, the California Legislature unanimously passed AB 1890, a bill that was more than 100 pages long and which represents California's attempt to restructure a business whose fundamental premise had not changed since shortly after the turn of the century. The California Public Utilities Commission (CPUC) was established in 1911 in order to regulate "natural" monopoly electricity providers such as Edison. While the CPUC will continue oversight activities over distribution utilities — what's left of today's vertically integrated monopolies — the actual generation and selling of electricity will be opened up to competition.

These electric utilities represent the last of the monopolies to be dismantled. Trucking, airlines and telecommunications have already been subjected to the rigors of competition. Starting this month, Californians will begin choosing from more than 100 companies poised to enter the state's $20 billion electricity market next January.

Perhaps the biggest headache for local governments under restructuring is maintaining their revenue bases to fund local services. San Luis Obispo County claims as much 17 percent of its annual revenues are at risk due to a reduction in the asset values of Pacific Gas & Electric's (PG&E) Diablo Canyon nuclear plant and its Morro Bay fossil fuel plant. Property tax assessments decline as power plants are devalued in order to respond to competition. The lowering of electric rates also often translates into lower tax receipts for local governments.

Despite the downside of restructuring, Palm Springs has helped focus national attention on how local governments can benefit in a deregulated electricity market. Initially, Palm Springs sought designation as what has been referred to as "muni-lite." This moniker refers to a local government claiming it owns enough of the local electricity distribution system to be granted the right to act like a municipal utility without going through the complete and highly contentious process of full municipalization. The strategy espoused by Lyons was to install duplicate electricity consumption meters at customer sites in order to qualify as a quasi-utility.

The Federal Energy Regulatory Commission (FERC), which has been busy implementing the terms of the Federal Energy Policy Act of 1992 (which encouraged a national system of electricity trades), ruled in August 1996 that duplicate meters did not constitute an actual electricity distribution system. The decision by FERC stalled efforts by other local governments throughout the country to follow the Palm Springs "muni-lite" strategy.

Luckily for Palm Springs, AB 1890 authorized California local governments to serve as purchasing agents for their constituents through the process of customer aggregation. Under this scenario, local governments do not need to own any portion of the distribution lines. They just accumulate individuals into a larger bulk electricity purchasing package. Once AB 1890 was passed, Lyons switched gears and began to pursue a strategy that enabled Palm Springs to serve as an aggregating agent

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for its constituents.

While the passage of AB 1890 was good news for Palm Springs, a key provision was stripped from the final bill due to opposition from Edison and the state's other investor-owned utilities. Language developed by Lenny Goldberg, lobbyist for San Francisco-based Toward Utility Rate Normalization (TURN), would have allowed local governments to aggregate customers with a simple vote by elected officials. Edison was, nonetheless, successful in stripping local governments of any special privileges in the aggregation arena. As is the case with all other aggregators, each customer electing to join a local government aggregation plan will need to be signed up one-by-one.

Eugene Coyle, a former TURN lobbyist and now an independent consultant, warns that other states should not hold up California's aggregation provisions as a model. "If a county or city wants to aggregate, it must sign up each customer individually," said Coyle. "The legislation puts all the marketing costs onto the city. The legislation should have been the other way. If a community wants to aggregate, then, having gone through the political process to make that decision democratically, then every customer is in the aggregate unless the customer specifically opts out."

Goldberg notes that local governments did get a small break with the passage of SB 477 this year, which removes the requirement for third-party verification of a switch in service providers. Private sector marketers are still required to comply with this possibly cumbersome verification process.

Whether local governments aggregate their own electric accounts or, like Palm Springs, aggregate the accounts of constituents is a charged political issue. Coyle warns small consumers will be shortchanged if local governments just aggregate their own power needs. Why? The larger, more attractive electricity customers — large municipal accounts such as office buildings, street lights or water pumping operations — will have been skimmed off the top. The remaining residential base of customers will be less attractive to a power marketer. However, aggregation efforts being pursued by San Jose, the Association of Bay Area Governments and the San Diego Association of Governments focus exclusively on purchasing power for municipal facility needs.

Coyle notes that if local governments aggregated residential customers, they would probably get a better power pricing since most local government facilities are nine-to-five operations. That's a peak time period when power is expensive. Residential customers, on the other hand, use power over a wider diversity of time periods. If these small customer use patterns were bundled with the larger needs of local government facilities (and commercial or even industrial customers), the end result could be greater savings.

The arcane details of the rapidly changing electricity business have kept armies of attorneys fat and happy. Among them is Dean Criddle, an attorney with the firm Orrick, Herrington & Sutcliffe.

"I am surprised we haven't seen more activity by local governments," acknowledged Criddle, whose clients include both investor-owned utilities and local governments. The big question, at least from Criddle's perspective, is "who will take care of the small fry? Will their phones be ringing off the hook as was the case with phone deregulation?" He's not so sure, since the electricity business in the near-term offers far smaller profit margins than the correspondingly lucrative telecommunications business.

"Who is going to make sure that all customers benefit from competition?" wondered Criddle. "Somebody has to step up to the plate. If private aggregators come into the residential market, I think local governments will sit on the sidelines. But if there is a big void, local governments would be the logical candidate. After all, if nobody picks up the garbage, it is the local government that steps forward."

While Palm Springs is leading the charge in Southern California, the city of South Francisco is moving forward with a constituent aggregation effort in northern California. Both of these efforts are motivated by reducing costs.

One of the few local governments to look at other policy issues — such as developing a greener and cleaner electricity system — is the city of Davis. A group billing itself as the Coalition For Local Power is aiming to create a municipal utility district via a local ballot initiative next summer. Dan Berman, co-author of the recent book "Who Owns the Sun?" argues that the only way to deliver cost-effective clean electricity from sources such as solar power is through policy mandates incorpo-

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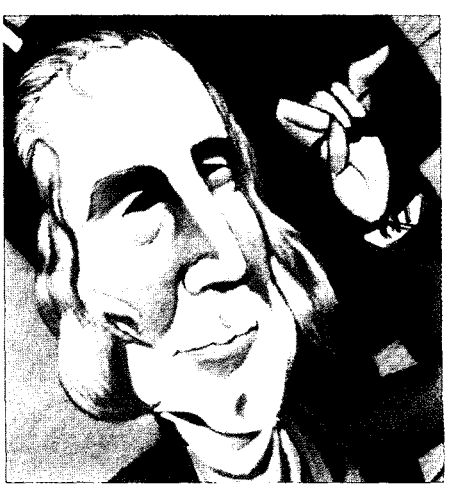
— Dean Criddle



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rated into a community-based small customer aggregation scheme.

Nonetheless, there has not been a successful municipalization in California in over two decades and many question the wisdom of any such effort. "The reasons for municipalization have dissipated," commented PG&E vice president Tom Bottorff at a September conference in Oakland dedicated to local government aggregation issues. He warned that if Davis, or any other local government located within its current service territory, pursued municipalization, they would wage war with his utility's lawyers.

Representatives of distribution utilities, as well as the retail marketing arms of incumbent utilities, still maintain that the potential role of local governments under restructuring is vastly overstated. Felix Oduyemi, senior project manager of public affairs for Edison, emphasized that his utility has been engaged in a major public relations campaign in 1997 to dissuade local governments from entering the aggregation business.

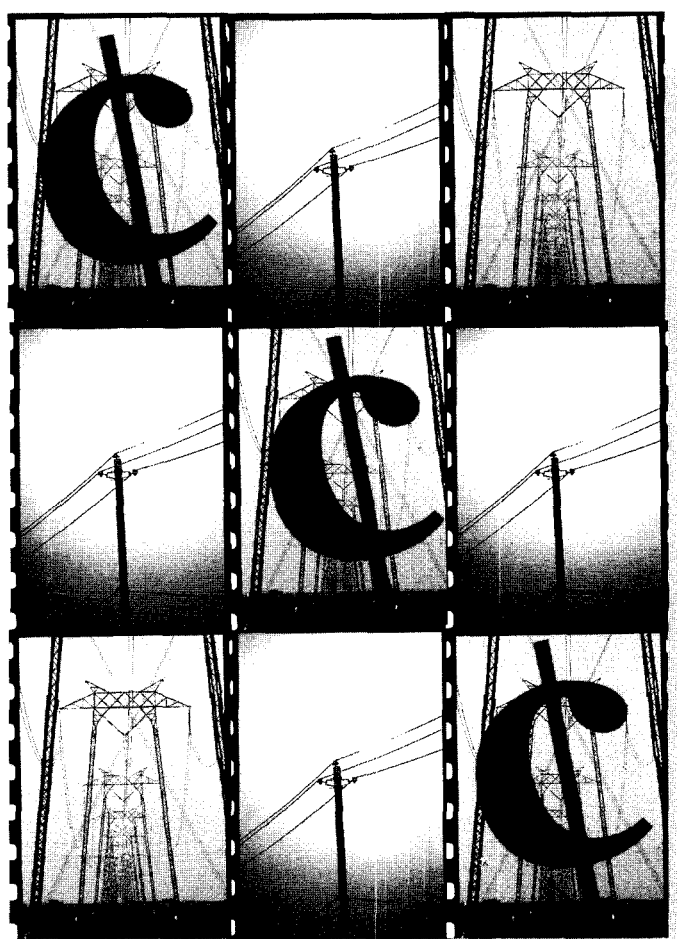
"Local governments would not just be purchasing power, but would have to keep track of these purchases," said Oduyemi. "They would need to develop their own accounting, metering and billing systems. What we tell local governments is that these services are already being paid for through rates. Instead of hiring an expensive consultant, do your own homework. Or call your local utility."

Alan Schurr, a marketing analyst with PG&E Energy Services, argues that the role of local governments "is highly misunderstood." He summed up the issue like this: "What is the incremental value of a city providing this service? Nobody wants local governments to aggregate phone service. People prefer to make those kind of choices on their own. He also pointed out that large aggregation schemes involving several local governments could introduce new subsidies when prices are averaged out among various local government aggregation participants. "I could come in and cherry pick the best accounts and cut my own deal," he said. He acknowledged that some local governments "may be able to capture hearts and minds of constituents, but they may also incur costs that could wipe out the anticipated benefits."

His unwavering confidence in the private sector was revealed when he proclaimed: "Cities don't stand a chance competing against the marketing machines and low-cost structure of private aggregators."

Local governments have been described as the "sleeping giants" of electricity restructuring. Although they are

The ABC's of the CTC



By far, the most contentious issue in electricity deregulation is the collection of an estimated $28.5 billion from every ratepayer over four years for what have been deemed "stranded costs."

"Stranded costs" is industry jargon for "bad investments." The $28.5 billion represents the difference between the book value of power plants, such as the state's two nuclear reactors, and the value of the power they produce in the brave, new world of competition. In a real market, this $28.5 billion would sink ships. In the electric utility industry, the ships still float with a lot of help from state citizens.

These costs will be collected from you on your

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the foundation of today's monopoly-based service system because most consumers' current service is based upon local government franchise agreements, they have been slow in responding to restructuring in California and elsewhere.

During the first decades of this century, local governments often served as aggregators and commonly offered franchises for electric service to competitive bidders. According to a study published by Barnstable County, Massachusetts, which is currently engaged in what has been described as the largest small customer aggregation effort in the country, more than 1,000 cities and towns in 30 states still hold franchise contracts with an existing monopoly service providers. California is among the states where local governments still have significant franchising authority.

The role of local governments in a restructured electricity industry is a big question mark. They could become major new market participants. Or they could, because of fiscal stress and daunting challenges in other policy arenas, play a minor role in the evolution of deregulated energy markets. As Nancy Day, a vice president with New Energy Ventures, one of the few power marketers trying to work with local governments, put it: "Local governments are not early adopters."

Goldberg still thinks local governments — particularly some special-purpose districts — could have an edge. "If you are a water district or an irrigation district or a city that provides water, you already have a billing and metering relationship with your customers. You can take advantage of economies of scale and service customers cheaper than the private sector," said Goldberg.

Though Lyons still complains about working with local officials, he hasn't given up. "Most local officials are not risk takers, but nobody else is going to go after the residential market," he predicted. From his point of view, if local governments don't come forward, the highly touted economic benefits of electricity competition may never materialize for the majority of Californians. And that end result represents a broken promise made by each and every member of the California Legislature.

Peter Asmus is co-author of Reinventing Electric Utilities: Competition, Citizen Action and Clean Power *(Island Press, 1997). He has covered the utility industry for the national trade press for over 10 years.*

electricity bill under the category of "Competition Transition Charge" or "CTC." It will amount to the equivalent of paying an extra three cents to four cents per kilowatt hour for power that could be purchased for as low as one cent to two cents per kilowatt hour on the spot market. The CTC, agree most market players, will make up 30 percent to 40 percent of power bills and therefore severely limit any major savings by California consumers until after the CTC is fully collected by the end of 2001.

Large power marketers, such as Houston-based Enron, have blasted the CTC and have made loud noises about writing off the nation's largest power market despite earlier claims of an all-out push for capturing a large share of California's retail market.

Ironically enough, consumer groups, led by the likes of Ralph Nader of Public Citizen and Harry Snyder of Consumers Union, found themselves agreeing with free market enthusiasts like Enron. This past August, they made a last-ditch attempt to scuttle the CTC deal by trying to derail SB 477, which authorized the selling of $9 billion in bonds that have been touted as necessary to grant California residents a 10 percent rate cut.

It was this rate reduction, the idea of state Senator Steve Peace (D-Chula Vista), that was largely responsible for the unanimous vote for AB 1890 last year. SB 477 is the follow-up implementation measure that, among other things, authorizes the rate-reduction bonds that were seen as political cover for allowing the collection of the CTC.

Nader called a vote for SB 477 "a vote for nuclear power" and according to his math, "ratepayers will have paid up to $9 for every $1 in rate reduction" after the bonds are paid off in 2007. He and Snyder pointed out that rates would have declined by 30 percent to 40 percent with restructuring absent the CTC and issuance of state bonds to finance what was touted as a 10 percent rate reduction for small consumers. Snyder summed up the issue like this: "The issuance of these bonds is effectively a tax only on California residential and small business electric consumers to help utility companies pay for a rate cut we already deserve."

The consumer groups cited public records that indicated that utilities were quite generous with the doling out of campaign contributions to key legislators. For example, California Public Interest Research Group issued a statement revealing that Peace received over $75,000 between 1994 and 1996 from the state's three investor-owned utilities.

Yet the loud noises about CTC, phony rate cuts and large campaign contributions fell on deaf ears, and SB 477 has been signed into law. Private polling indicates that the public doesn't seem to care about the CTC. And the state's major utilities now say they may be able to collect enough money to pay off the bad debts — which also include investments in windmills and solar plants — earlier than expected. They are plowing huge sums of this money into readying themselves to do battle with the Enrons of the world.

The other side effect of the CTC is that the main focus of initial product offerings this January will be green power. That's all companies like Enron, as well as utility subsidiaries such as Edison Source, can sell because green electricity is a lucrative niche market. It is one of the few products that people are willing to pay more for.

— Peter Asmus

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Ronald George

Illustrations by Jonni Hill

The state Supreme Court's chief justice charts a centrist course that riles both extremes, but a controversial decision has placed him in the cross hairs of abortion foes as a 1998 reconfirmation vote looms.

By Bob Egelko

When Ronald George — former state prosecution lawyer, defender of the death penalty, the judge who put the Hillside Strangler away — was appointed to the state Supreme Court by Governor Pete Wilson in 1991, the groans came from the left.

The court, which has been "careening 70 miles an hour to the right, will be going 90 miles an hour," predicted Elizabeth Semel, former president of the defense lawyers' group California Attorneys for Criminal Justice. "A tragedy," said Gerald Uelmen, Santa Clara University's liberal law dean and a longtime court analyst. He called George "another pea in the pod," one more white male conservative on a court already overstocked with them.

Six years later, George is chief justice and the groans are coming from a different direction.

"With conservatives like that, who needs radicals?" asked Gideon Kanner, a property-rights lawyer and legal columnist, dismayed by the court's rulings on rent control and compensation

Continued on page 25

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Anthony Kennedy

Conservatives thought one of their own was ascending to the United States Supreme Court when Ronald Reagan elevated his fellow Californian to the high Court in 1987. It hasn't worked out quite that neatly.

By Carl M. Cannon

Ten years ago, in an ornate U.S. Capitol Hill hearing room, the Senate Judiciary Committee began interrogating Anthony McLeod Kennedy of Sacramento, whom President Ronald Reagan had nominated to the United States Supreme Court.

The committee, chaired by Democratic Senator Joseph R. Biden Jr.of Delaware, was not eager to find fault with Kennedy, who was Reagan's third choice for the vacancy left by Justice Lewis Powell. The first choice was Robert Bork, defeated in a bruising ideological confirmation fight. After Reagan's second choice, Douglas H. Ginsburg, faltered after admitting he'd smoked marijuana while on the faculty at Harvard, Reagan turned to Tony Kennedy, a straight-arrow jurist whom the president and his attorney general had known since their days in the statehouse, and whose idea of a high time was to dress up as James Madison to spice up his lectures at Sacramento's McGeorge School of Law.

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The Judiciary Committee would end up voting 14-0 to send Kennedy's nomination forward (the Senate ultimately would approve his nomination on a vote of 97-0), but first he had a hurdle to clear with Joe Biden. The chairman put on his glasses and read Kennedy a passage from a newspaper column written by Cal Thomas, a onetime deputy to the Reverend Jerry Falwell: "Republican Senator Jesse Helms of North Carolina told me that he and Judge Kennedy met in a private room at the White House on November 12. 'I think you know where I stand on abortion,' Mr. Helms said to Judge Kennedy (who) smiled and answered, 'Indeed I do and I admire it. I am a practicing Catholic.'" Kennedy did not elaborate, but Helms inferred Kennedy might be disposed to overturn *Roe v. Wade*, the Court's landmark decision establishing abortion as a constitutional right for women on the grounds of privacy. "Could you, for the record," Biden asked Kennedy at that December 15, 1987, hearing, "characterize for us how accurate or inaccurate you think that column is?" *Roe*, of course, had been what the ugly fight over Bork had been all about, and the room became quiet.

"The conversation that you referred to was wide ranging, of a personal nature, in which the senator asked me about my family and my character and I told him, as I've told others of you, that I admire anyone with strong moral beliefs," Kennedy replied. "Now, it would be highly improper for a judge to allow his or her own personal or religious views to enter into a decision respecting a constitutional matter."

Later, when a Republican senator, Iowan Charles E. Grassley, asked Kennedy to expound on his description of himself as a conservative, Kennedy replied, "A conservative recognizes that any state must contain within it the ability to change in order to preserve those values that a conservative deems essential."

Senators are like everyone else — they sometimes hear what they want to hear — and with little more than those enigmatic answers, Grassley and the other conservatives in the Senate concluded that Bork or no Bork, they had put one of their own on the Supreme Court.

It hasn't worked out quite that neatly. Although he votes with the conservative cabal of Antonin Scalia, Clarence Thomas and Chief Justice William H. Rehnquist more than 80 percent of the time, Kennedy and Sandra Day O'Connor — another Reagan appointee — have emerged as a kind of two-judge moderate bloc that essentially controls the fate of every close constitutional case before the Court. The crowning disappointment for conservatives came in 1992 in *Planned Parenthood v. Casey* when Kennedy affirmed, rather than voted to reverse *Roe*. In doing so, he went against not only his own previous decision in a similar case three years earlier but his own straw vote in a pre-vote judicial conference on *Casey*, a change of heart that confounded Rehnquist and Scalia. And although Kennedy has been the deciding vote on a host of cases restricting affirmative action and outlawing racially gerrymandered districts, he also stunned conservatives last summer by authoring a 6-3 decision — O'Connor was on his side again — striking down a Colorado initiative that sought to repeal all local ordinances protecting gays and lesbians from discrimination.

"Anthony Kennedy is the balance wheel of the current Court — the wheel that stabilizes the Court's movement, keeping it from moving too far too fast, to left or right," says Lyle Denniston of the *Baltimore Sun*, the dean of the Supreme Court reporters. "He has not contributed as much to the prevailing legal doctrine as O'Connor has, but he is the reason the center of the Court has held sway."

Somewhere along the way, Kennedy has become probably the staunchest defender of the First Amendment on the court since William O. Douglas, and has voted to protect such activities as flag burning and Internet porn by way of upholding free expression. Some observers have dubbed this Court the "Kennedy Court," which slights not just Rehnquist, but O'Connor as well. But there's a reason. In the term that ended last July, O'Connor was in the majority in 13 of the 18 rulings decided on a 5-to-4 basis. Kennedy was in the majority even more, 15 times in all. "The Constitution is what Anthony Kennedy says it is," quips Georgetown University law professor Mark Tushnet.

In the Colorado gay rights decision, Kennedy, writing for the majority, said the measure was "born of animosity" to one group of citizens and would accomplish "no legitimate government purpose." The ruling made Kennedy a hero to gay activists. Conservatives ridiculed the opinion, arguing that it employed no recognized constitutional principle.

Conservative lawyers who practice before the Court also complain that Kennedy is unpredictable. Attorney Charles Cooper recalls preparing for a school prayer case, *Lee v. Weisman*, by carefully poring over Kennedy's dissent in a 1989 case decided 5-to-4. In that case, *Allegheny v. ACLU*, Kennedy voted to keep a creche in a town square on the

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grounds that the Constitution's "establishment" clause forbids religious expression only if the government coerces its citizens. In *Lee* school administrators had chosen a rabbi to deliver an ecumenical prayer at a voluntary graduation ceremony. This time, Kennedy was on the other side, arguing that the coercion was implied. "Research in psychology supports the common assumption that adolescents are often subject to pressure from their peers toward conformity," Kennedy wrote.

"Interior decorating is a rock-hard science compared to psychology practiced by amateurs!" thundered Scalia's dissent. Scalia also threw back Kennedy's language at him in the *Allegheny* case after *Lee* was decided. He wasn't the only one. "My whole approach to that case, my brief, my arguments, was a 'Dear Tony' letter," recalls Cooper. "My hope was that Souter would see it Kennedy's way. As it happened, Kennedy didn't see it Kennedy's way."

Kennedy's friends, allies and former clerks almost boast about this trait, freely conceding that he decides great constitutional questions on a "case by case" basis. His former 9th U.S. Circuit Court of Appeals colleague Alex Kozinski once confided to *The Sacramento Bee* that Kennedy tries on different ideas "kind of like a hat."

If anything, he seems most unpredictable on highly visible cases. But why? Court observers also wonder, Kennedy's assurances to Biden notwithstanding, how such factors as religion, gender, nationality, Washington politics, and regional bias influence the actions of a judge who doesn't have a firm judicial ideology.

Theory number one, popular among conservatives, is the Greenhouse Effect. Named after Linda Greenhouse, Supreme Court correspondent for the *New York Times*, this theory holds that as Republican-appointed justices such as Harry Blackmun become more liberal the longer they serve, the Eastern liberal press pronounces them as "growing" in the job. In other words, the justices become seduced by wanting the acceptance and praise of the (liberal) Washington elites.

Certainly, this point has some validity as press criticism, but its value as an insight into the thinking of the current members of the Court is dubious. A less perjorative way of looking at it is that the judges consider their place in history. Although O'Connor has never explained her vote on *Roe*, she has confided to friends that after she contracted breast cancer, she became more focused, more aware of her own mortality — and more concerned with her legacy as the first woman on the high Court. There are also strong suggestions that Kennedy is keenly aware that history is a demanding jury. This is a man who presided over a mock trial of Hamlet (was he innocent by reason of insanity when he killed Polonius?) and who can speak extemporaneously for an hour on the justices appointed by Franklin Roosevelt to pack the Court during the mid-1930s. The day of the *Casey* decision, Kennedy gazed out a window at demonstrators below and told a visitor, "Sometimes you don't know if you're Caesar about to cross the Rubicon ... or Captain Queeg cutting your own tow line." Ten minutes before going on the bench, he dismisses his visitor, saying, "I need to brood..."

Theory number two is that Kennedy's chambers, if not his mind, have been infiltrated by minions loyal to liberal Harvard professor Laurence Tribe. Certainly, Tribe has influence. Peter Rubin, a former Souter clerk, was a Tribe protege — he helped research Tribe's strongly pro-choice

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1990 book. Likewise, one of Kennedy's influential clerks at the time *Casey* was decided was another former Tribe student — and someone who co-authored a book on constitutional law with Tribe.

The problem with this theory is that Tony Kennedy is no one's idea of a dummy. He was Phi Beta Kappa at Stanford, *cum laude* at Harvard Law, teaches each summer in Salzburg, Austria — with Tribe, who dismisses the infiltration theory: "a paranoid and stupid idea which insults his intelligence and independence and overstates my influence over my students."

Theory number three is that Kennedy, like the other justices, is a product not just of his law school and political views, but his gender, generation and, more than anything else, his region. This summer, *U.S. News & World Report* did a seven-page takeout on this theory, arguing that rulings by Rehnquist and O'Connor curbing government power can be traced to their upbringing in Arizona, where it is ingrained that the real threat to individual liberty comes from the federal govenment. Kennedy, the theory goes, has some of those same western leanings — with an overlay of sunny California optimism.

This is particularly evident in race cases, where Kennedy's decisions, some of which are considered liberal and some conservative, are consistent. They also consistently appeal to a person's better nature. "He almost, but not quite, favors a color-blind Constitution," adds conservative legal scholar Terry Eastland. His judicial philosophy seems closer to "Why can't we all get along" than anything else. Says Theodore Olson, a former Reagan administration official who has practiced before the Supreme Court: "You often see him coming out [in favor] of people who argue that they are discriminated against or separated out by society. He has sympathy."

It seems that Kennedy looked at the Colorado gay rights case almost as if it were a race case. If so, he's following in the tradition of his patron. In 1978, a conservative California legislator named John Briggs authored an initiative that would have banned gay teachers from the classroom. With polls showing wide, but not deep, support for the measure, Briggs sought the endorsement of the nation's preeminent conservative — ex-governor and president-in-waiting Ronald Reagan. Reagan ducked the issue until Briggs irritated him by taunting him for his invisibility on the issue. Reagan then scheduled a press conference — and promptly attacked the measure, dooming it to defeat.

In the end, even all these influences — a desire to be respected in Washington, his long view of history, his western roots, his Republicanism, his Catholicism, his friendship with liberals, his brooding over what is right and wrong — all of them together explain Kennedy's metamorphosis. Or nearly do. One of his former clerks, in an interview with the *Baltimore Sun's* Lyle Denniston, said that what most struck him about Tony Kennedy was that inside his "suburban manners" lurked an "Irishman's soul."

Carl Cannon covers the White House for the Baltimore Sun.

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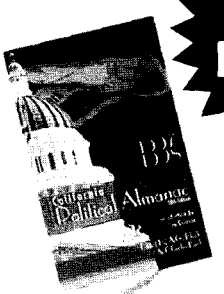

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Ron George

Continued from page 22

for condemned property. Mark Pulliam, a conservative legal commentator, condemns George for rulings on abortion, three strikes and age discrimination, for supporting legal services for the poor and for embracing "political correctness" by backing efforts against race and sex bias in the legal system. George, Pulliman concludes, is as much of an activist as former Chief Justice Rose Bird but more politically astute.

And for the first time since the defeat of Bird and two liberal colleagues in the death penalty-centered campaign of 1986, Supreme Court justices will face organized opposition at the polls next November. Anti-abortion groups are calling for the defeat of George and Justice Ming Chin for their votes this August to overturn the state's parental-consent law for minors' abortions.

At what point in his efforts to erode parents' rights will people say, "Enough is enough?" asks Mike Spence, vice president of the California ProLife Council.

Some former critics, meanwhile, have become boosters. Criminal defense lawyers, though they still lose more often than they win in George's court, will rally around the justices in the election, says Ephraim Margolin, former president of the National Association of Criminal Defense Lawyers. At least in this court, he says, "there is a feeling that we are not the enemy." Uelmen, now a law professor at Santa Clara, said George is leading a centrist revival on the court. "What may have been misjudged ... was his capacity to change," he said.

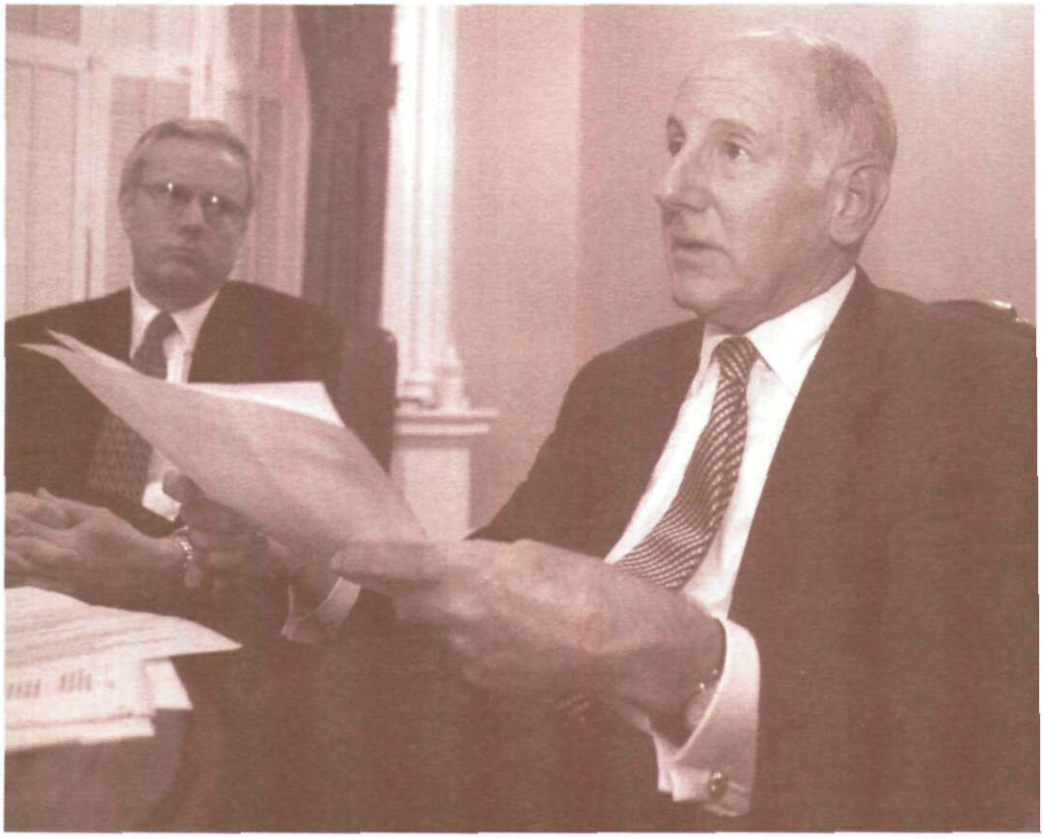
Who is this guy?

By any conventional definition, George is no liberal. His court remains a generally friendly forum for prosecutors, manufacturers and the state. And George stands squarely in the middle of the court, the swing vote in close cases. In the first year as chief justice, he voted with the majority in all 10 cases decided by 4-3 votes, according to Uelmen's study. The rulings criticized by Kanner, restricting damages to an illegally rent-controlled landlord and to the owner of condemned property near a rail line, come from a court that has seldom favored expanding anyone's right to sue for damages.

Prosecutors were upset about the unanimous June 1996 three-strikes ruling, which let judges refrain from sentencing third-time felons to 25-years-to-life based on the facts of the case. But in view of the court's broad interpretation of other sections of the law, the ruling appears to be more of an affirmation of judicial authority than a reflection of defense sympathies. The court still upholds death sentences routinely, and George has made his mark with a 1993 ruling allowing convictions to be upheld despite coerced confessions, and a 1994 opinion broadening prosecutors' ability to introduce evidence of a defendant's past crimes. He also was part of a recent ruling allowing cities to prevent gang members from meeting in public in certain neighborhoods.

On the other hand, George, as Pulliam points out, is no Malcolm Lucas. Governor George Deukmejian promoted his former law partner to chief justice in 1987 and surrounded Lucas with like-minded conservatives, with the evident goal of undoing the work of the Bird court. George may share the ideology of some of his predecessors but does not appear to share their agenda. A close ally of Lucas in his first year on the court, he diverged in later years, particularly in cases involving privacy and civil rights.

The parental-consent ruling, written by George for a 4-3 majority — all Wilson appointees — endorsed a board view of state constitutional protections that was anathema to Deukmejian and most of his justices. The Lucas court, in fact, voted 4-3 in April 1996 to uphold the same law, but Lucas and fellow Deukmejian appointee Armand Arabian retired before the ruling became final, and the new court granted reconsideration in one of its first acts after George's elevation in May 1996. The court issued its final ruling in the case shortly after the ProLife Council promised to campaign against any justice who voted to overturn the law. George said later that the threat only increased his resolve to write the opinion himself.



"I think it was important for the court to indicate it will perform its duty in deciding cases without being intimi-

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dated," he said in an interview.

In another case earlier this year, George led a divided court that allowed a city to test all job applicants for drugs but barred drug testing of employees seeking promotions to some non-safety jobs. George also wrote a 1995 ruling, over Lucas' dissent, that allowed a woman to sue a private country club for sex discrimination.

Another contrast between George and many other colleagues is his commitment to the job. Nearly all the Deukmejian appointees retired after becoming eligible for maximum pension benefits, and most moved on to lucrative jobs as private arbitrators. George, 57, could retire at 60 with a full pension of 75 percent of his salary but says he's found his life's work.

"I have no aspirations toward private judging or toward a further career," he said. "So long as I am able to perform my job in a competent manner I would like to remain where I am."

A legal career was not a lifelong goal. The son of a Hungarian mother and a French father, George grew up in Beverly Hills, attended Princeton University's school of international relations and wanted to go into the Foreign Service. He said he became disillusioned after meeting some real-life diplomats on a hitchhiking trip through West Africa at 19. But after graduation from Princeton and Stanford Law School, he was still looking for inspiration. He found it in the state attorney general's office, his first and only job as a lawyer, where he specialized in criminal appeals during most of an eight-year tenure. "It combined the most exciting part of the law, constitutional law, with the idea of public service," he said.

He argued his first case before the U.S. Supreme Court at age 28 and recalls "walking through those portals as if you're about to meet your maker." It proved to be the landmark case of *Chimel v. California,* which set limits on searches during arrests. George was on the losing side, but said his performance was well-received in the office and helped bring him five more Supreme Court cases as well as eight before the state Supreme Court, including one in each court defending the constitutionality of the death penalty. In one state court case, he argued successfully to uphold Sirhan Sirhan's conviction for the assassination of Robert Kennedy. One newly hired deputy attorney general — Roger Boren, later a Hillside Strangler prosecutor and now a state appellate justice — said a supervisor handed him George's Sirhan brief and told him it was the way briefs were supposed to be written.

"He was a very academic and talented lawyer, clearly on the fast track from the time he came in," said Andrea Ordin, who joined the office about six months after George and later became a chief assistant attorney general and U.S. attorney in Los Angeles.

George applied for a judgeship in 1972 and quickly became one of the state's youngest judges, at 32, with his appointment to the Los Angeles Municipal Court by Governor Ronald Reagan. Every governor since then has promoted him: Democrat Jerry Brown, to the Superior Court in 1977; Republican Deukmejian, to the Court of Appeal in 1987; and Republican Wilson, to the Supreme Court in 1991, Wilson's first appointment to the court.

In 1981, he was assigned the case of Angelo Buono, accused of being the Hillside Strangler who committed 10 gruesome sex murders. The case helped to define the careers of several participants, including George, Boren and then-District Attorney John Van de Kamp.

After a key witness recanted, Van de Kamp sought to drop the murder charges and prosecuted Buono only for rape, saying he lacked evidence for murder convictions but would seek it while Buono was in prison. George refused, in what may have been an unprecedented decision.

Recalling the case, he says he researched the law and decided that "the court was not supposed to be a rubber stamp for the prosecutor" and that dismissing the charges would not be in the interests of justice.

Attorney General Deukmejian's office was brought in to prosecute and Buono was convicted of nine murder charges in a two-year trial and sentenced to life in prison. Van de Kamp later became attorney general and was hurt in his 1990 campaign for governor when fellow Democrat Dianne Feinstein used the Buono case against him. Now a Los Angeles attorney, he speaks highly of George and told one interviewer that time had vindicated George's ruling against him.

It was during the Hillside Strangler case — when he was also president of the California Judges Association and supervising judge of the criminal court — that George took up running to relieve stress. He later competed in the New York and Boston marathons.

He embarked on another marathon soon after becoming

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chief justice, a high-profile, fence-mending, morale-building trek to courts in all 58 counties. He returned with stories of shortened court hours, antiquated facilities and threadbare security systems that helped persuade Wilson and the Legislature to provide nearly $400 million in long-sought funding for trial courts. It marked an upturn in the judiciary's legislative relations, which had been frayed since a 1991 term-limits ruling in which Lucas indelicately commented that legislators might be better off with a 38 percent cut in their operating budget. George has also improved the court's relations with the press. He has been personally accessible in a way that was foreign to Bird and Lucas, and changed the court's opinion-filing schedule after a meeting with reporters. He also led the state Judicial Council in a rebuff of Wilson's proposal to ban cameras from the courts.

These touches could help George when he, Chin and two other justices face the voters next year. Although only anti-abortion groups have come out against George so far, election records suggest he is vulnerable. Without any opposition campaign or issues comparable to the death penalty mania of 1986, the justices' margins in retention elections have been dwindling in the 1990s, perhaps reflecting the public's overall attitude toward the legal system. George got only 57 percent of the vote in 1994.

"There's no way they will coast through," said Joseph Cerrell, a veteran manager of judicial election campaigns. "You've got to be prepared to do what every other political candidate does: raise money, meet the media, and meet the masses, starting with your core constituency, judges and attorneys."

George sidestepped questions about the 1998 election, saying, unconvincingly, "I haven't given it that much thought yet." The answer suggested that he was expecting to take an above-the-fray stance while the active politicking was done by others, such as a committee being organized by Joseph Cotchett, a prominent plaintiffs' attorney, to campaign for all the justices.

"I think they'll [the justices] stand above it and let the voters speak," said Cotchett.

But George also is capable of deft political maneuvers, such as the bill he and other judicial leaders quietly steered through the Legislature to remove any reference on the ballot to the length of the justices' terms. Pulliam, a San Diego lawyer who is probably George's severest public critic, was scornful about the change, saying court leaders "ought to be figuring out why the voters are mad" instead of concealing election information. Whether enough voters are mad at, or alienated from, the judicial system to cause trouble for George should become apparent before long. George insists it won't affect the way he does his job.

"The job would not be worth holding if you had to look over your shoulders to see which way the political winds were blowing," he said , in a line that has become almost a personal mantra. "We certainly have seen how that works in various totalitarian regimes."

Bob Egelko has been covering the state Supreme Court for the Associated Press since 1984.

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An uncertain

Disappointing admissions figures among minority students at the University of California have reignited the debate over whether the university can achieve diversity without affirmative action

by Melanie Smith

The first day of law school is grueling under the best of circumstances. But for Eric Brooks — the only African American in the first-year class at the University of California's Boalt Hall School of Law in Berkeley — the unwanted swarms of reporters and photographers made Day One the stuff of nightmares. On his first day of classes, Brooks was forced to hold a news conference to accommodate the scores of journalists looking to find out why he went through with it and how he felt.

Even at the birthplace of the Free Speech Movement, the sight of a first-year law student holding a news conference was enough to give one pause.

The stage for this scene was set more than two years ago. In July of 1995, the University of California Board of Regents, led by Regent Ward Connerly and spurred on by Governor Pete Wilson, voted to eliminate consideration of race, ethnicity and gender in University of California admissions. Wilson made a rare personal appearance at the Regents meeting in 1995 to vote in support of the ban. Now, the numbers are starting to come back showing startlingly low numbers of minority entrants at some professional schools and graduate departments. Many fear the same thing will happen next spring when the resolution takes effect for under-

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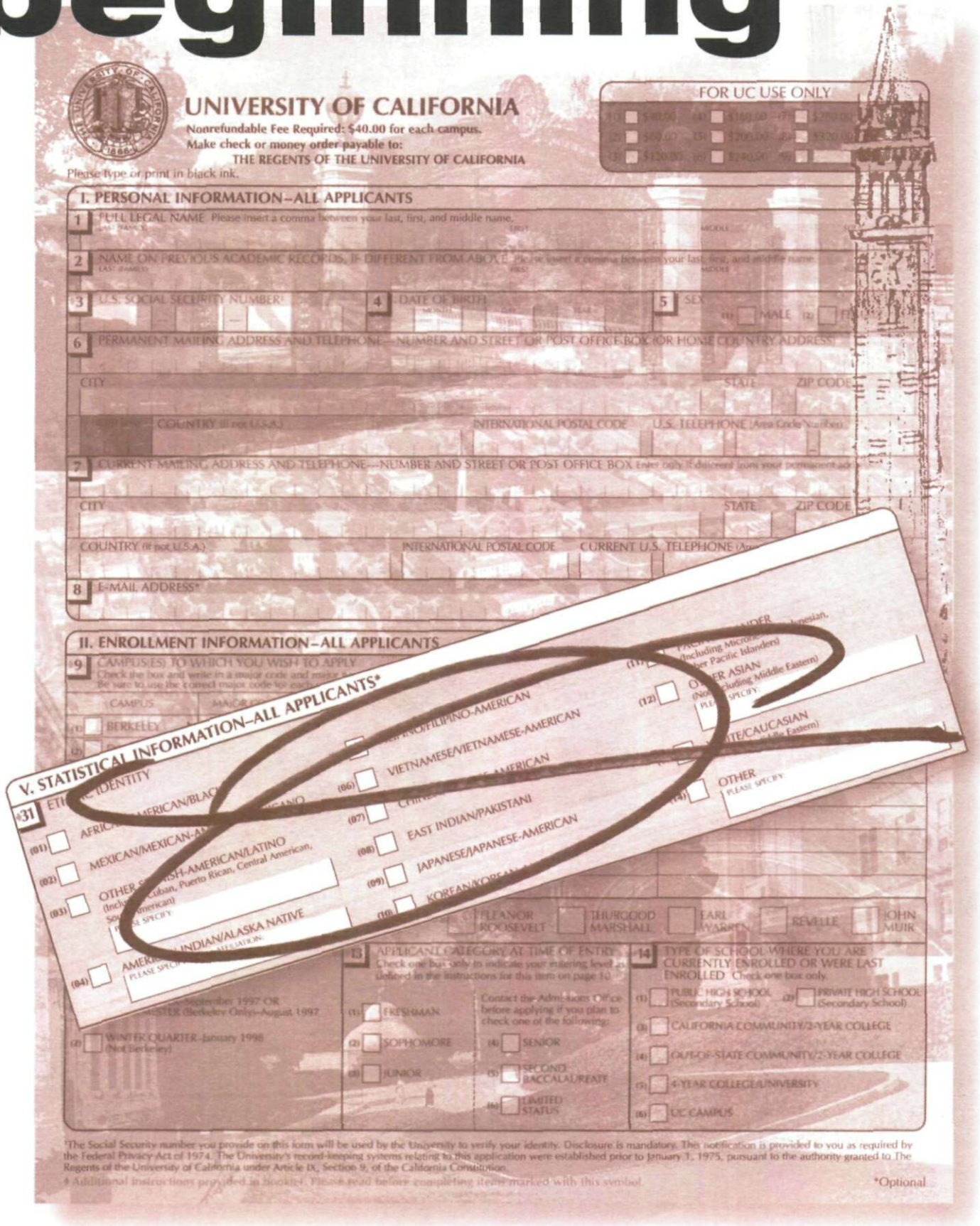
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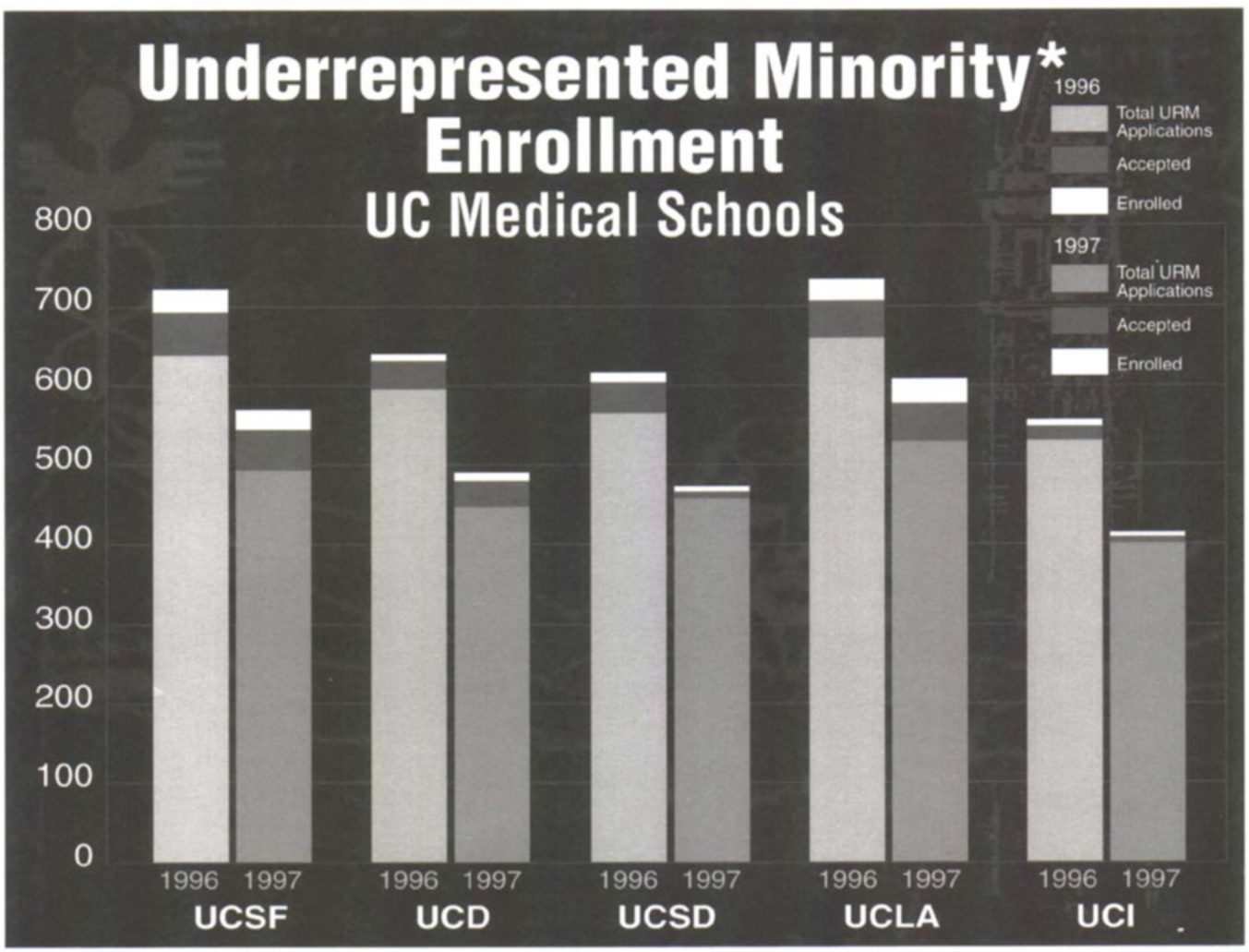
graduates. For now, the university is faced with a public relations headache and a new round of political recriminations, with both proponents and critics of the decision offering their own particular brand of "I told you so."

Among the most startling statistics was a 23 percent drop in fall 1997 applications by underrepresented minorities to all five University of California medical schools. That compares with a nationwide drop of 8 percent overall and 14 percent among underrepresented minorities. (In most cases, "underrepresented minority" refers to African Americans, Mexican Americans, Native American and Eskimo Americans and Mainland Puerto Ricans. Asian Americans and Pacific Islanders are not considered underrepresented.) Of those who chose to enroll, the numbers tell a more mixed story (see graph below). Provisional numbers for underrepresented minority enrollment in the 1997/98 classes at the San Diego and Irvine campuses were very low. Neither campus will have any new Black or Native American medical students and few Hispanics. But numbers for the Los Angeles, Davis, and San Francisco medical schools showed the same numbers or slight increases for some underrepresented groups.

Law school figures showed similar mixed results with numbers down at the Los Angeles campus and up slightly at the Davis campus. But the real attention-getter was Berkeley's prestigious Boalt Hall School of Law with its one first-year black student. That student — Brooks — was accepted in 1996, prior to implementation of the regents' decision, but he deferred enrollment until 1997. Fifteen other African Americans accepted but chose not to come. Only seven out of 38 Latino students decided to attend. In other areas of graduate studies, the numbers at Berkeley were also discouraging. While results vary between departments, overall enrollment by underrepresented minorities dropped 17 percent at Berkeley.

Explanations for the falloff vary. Supporters of the affirmative action ban say the early results prove that underqualified students were being admitted to the university. Opponents counter that qualified minorities were not adequately recruited, and were, in fact, discouraged from coming. For critics, though, the concern goes beyond simply the issue of minority representation. According to some, the supposedly independent Board of Regents has unnecessarily politicized the university environment, harming its reputation.

"Regardless of a person's feeling towards affirmative action, the Board of Regents ... should not have acted on its own, ahead of the electorate," said Regent William Bagley, who opposed



*The Association of American Medical Colleges defines underrepresented minorities as African Americans, Mexican Americans, Native American/American Eskimos, and Mainland Puerto Ricans.
Source: University of California

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the affirmative-action ban. "The constitution says we're an apolitical entity — we didn't have to take action, we could have awaited the election.... Students are absolutely correct in blaming the Board of Regents. [This is] hurting my university."

Similar emotions come from student representatives. "There's a demographically disappointing class coming in this academic year," said Peter Pursley, legislative affairs director for the University of California Student Association. "The composition of UC classes is not acceptable." He said that the regents should "go back and read Bakke," the 1978 U.S. Supreme Court ruling which determined that colleges can consider race as an admission factor but cannot reserve a fixed number of places for minorities.

"[The regents] have done a lot of social damage to this university, and it's up to them to fix it," Pursley said. "They'd better start listening to faculty, students, the Office of the President to some extent Californians are not happy about the status of higher education."

The place where any damage to the university's reputation would be most visible would be in the decisions made by California minority students about where they will go to school. Jacqueline Benjamin, a second-year Black medical student at the Irvine campus and co-president of the Irvine chapter of the Student National Medical Association, interviewed at several Eastern and Midwestern schools before choosing Irvine. Benjamin says one administrator in Milwaukee told her "they get a lot of California minority students attending their school because they feel more comfortable there." Victoria Valle, a former University of California San Diego recruiter who now heads admissions at Spelman College, a predominately Black institution in Atlanta, Georgia, said that her students considering graduate work are less likely to be looking towards California.

"They can go just about anywhere," said Valle. "They're going to want to go to places where they can feel valued."

Proponents of the regents' decision and the anti-affirmative action Proposition 209 say that media attention to a small group of admissions, particularly admissions at the Berkeley campus where thousands are turned away, has distracted observers from the resolution's purpose and its stated commitment to diversity. Some, like Proposition 209 co-author Tom Wood, blame the university for sending the message out that minorities aren't welcome, turning the admissions drop into a "self-fulfilling prophecy." Connerly said that he doesn't know why students "would interpret [the resolution] as they're not welcome," because the university is saying "we will not discriminate against or grant preferential treatment" based on skin color.

"We applied academic criteria, namely grades and test standards, to determine who would be admitted to academic institutions," said Connerly. "If, by those measurements, we have certain groups who were not as competitive as others, that says we have a problem of lack of admissibility."

"There is no way that [the resolution] could be interpreted that the regents don't want diversity," said Regent Meredith Khachigian, who voted for the affirmative-action ban. Khachigian acknowledged that the numbers are "troubling, but not unexpected.... We recognized that race was a determining factor in admissions. When you stop that, it certainly affects the people who got in previously."

Khachigian says she's optimistic that the university will be able to secure the funds for a planned outreach program. "There are a lot of different programs that are already in place. They're already funded. ...A lot of people of good will are interested in this — they want to support it financially."

Indeed, the regents recently approved an expanded outreach plan to increase representation of minorities in higher education and to make them "competitively eligible" for the most elite universities. A 35-member task force has added a $60.5 million slate of programs targeting "educationally disadvantaged" students to its current outreach efforts. The plan includes partnerships with high schools, junior high and elementary schools to prepare students for higher education, as well as teacher recruitment, development and retention programs. It also expands on current successful student outreach programs and includes a short-term strategy outreach to inform students, families, and teachers about preparing for college.

Just how effective the plan will be or whether the funds will be generated remains an open question. While programs such as Advancement Via Individual Determination (AVID) have had success, such existing programs reach only about one in nine of the students who could benefit, according to Warren H. Fox, executive director of the California Postsecondary Education Commission, the state's planning and coordinating agency for California higher education. Finding the money is also a concern. The Legislature has

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allocated $1 million to the university for outreach and University of California President Richard Atkinson has slated another $2 million. For the program to exist in full, however, most of the money will have to be raised from other sources — private and public.

"With the loss of affirmative action, these programs are more important than ever, but they cannot in the short run be expected to close the gap," said Fox. "In the long run, with more students enrolled, with more time to get these programs in place, the numbers for low-eligibility groups will increase."

According to some medical and law school deans, though, money for outreach still won't address what they view as a dismal backdrop against which they compete for students. At a recent state Senate hearing, several deans noted the system can't compete against full scholarships offered to minority students by private, out-of-state institutions. Several African Americans accepted to Boalt Hall, for example, took off instead for Harvard, Yale, Stanford, Columbia and Duke.

In the short run, college recruiters have come up with a range of tactics to draw and retain minority applicants, including targeting zip codes, matching minority students with minority alumni from the business community who share common interests or backgrounds, and ensuring that a minority admissions representative meets with prospective minority students. Acknowledging that those minority students accepted to the Los Angeles campus' Anderson Graduate School of Management would be highly sought nationwide, Director of MBA Admissions Linda Baldwin said "we [had] to do more to woo them to us." This year the school's alumni, she said, "were trying to mentor students who are difficult to land." She said the school sought "to personalize the recruiting process."

Recruiters must walk a fine line with these efforts, lest they run afoul of affirmative action foes, who are watching closely. Connerly warns that some of the tactics could be "fatal" and put the university in the path of lawsuits. "The true test of whether you have given preferential treatment is what is your intent?" said Connerly. "If it is our intent to try to benefit purple people at the expense of others, [courts will] throw it out." University outreach director Margaret Heisel said that the university is aware of the disadvantage suffered by Blacks and Latinos and will be taking "every possible advantage of working with" those groups that are "legally feasible." But she acknowledged that "No one is exactly sure" what those parameters are yet — "we will find out over time."

Affirmative action opponents are not the only ones raising the legal flag. The U.S. Department of Education's Office of Civil Rights is investigating a complaint filed by the Mexican American Legal Defense and Educational Fund (MALDEF) and others. It charges that University of California graduate and professional school admissions criteria have a discriminatory impact on certain minorities. The Office of Civil Rights has currently confined its investigation to the law schools and is looking at criteria such as the weight given to LSAT scores, an "imperfect measure" for predicting performance for first-year law students, according to MALDEF

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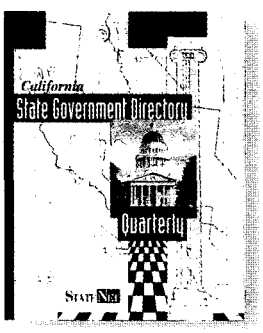

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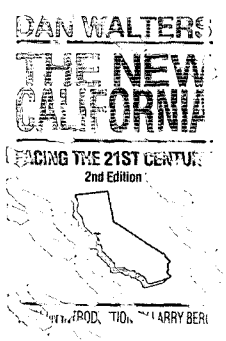
The New California
by Dan Walters



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staff attorney Joseph Jaramillo. If MALDEF wins and no compliance agreement between the federal government and the university can be reached, the university risks losing over $1 billion in federal funds

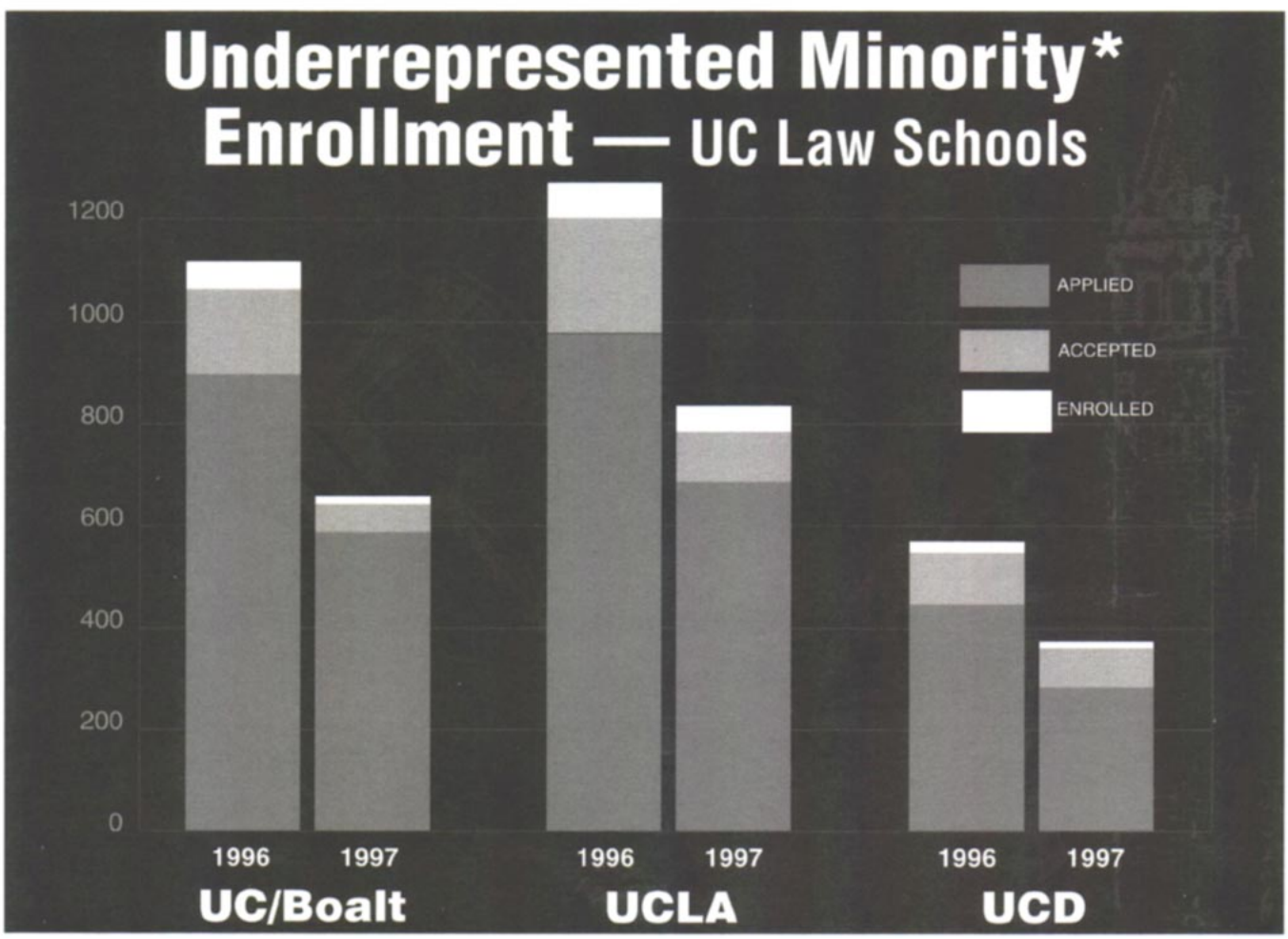
MALDEF and the NAACP Legal Defense Fund have also filed a complaint with the U.S. Department of Labor addressing university employment and admissions. Federal law requires that those contracting with the U.S. government must implement affirmative action plans in their employment policies. Since the labor pool for teaching assistants and related positions at the university typically comes from applicants to graduate school programs — students who are often admitted and hired at the same time — the university is violating that mandate, Jaramillo said. In this case, the university risks termination of federal contracts by the Department of Labor if it is found in violation of civil rights laws.

Even if the regents wanted to reconsider their decision, Proposition 209 is now the law of the land. While Senator Teresa Hughes (D-Los Angeles) will be promoting a constitutional amendment to eliminate statewide aptitude test scores as a requirement for application to the university, substituting "educationally sound measures of high school performance," outreach still appears the method of choice for curtailing drops in minority representation at the system's professional schools. Will these efforts take the heat off the Regents and the university? Student Regent Kathryn McClymond hopes so. "I think the Regents' responsibility is to keep the pressure on, to be sure that [the Regents task force's recommendations] are implemented quickly and aggressively, said McClymond. "We can't wait too long to see results. If we don't see the results we want to see, we'll have to re-evaluate."

Regent Roy Brophy, who opposed the resolution, is less optimistic. He said he doubts the university will become less competitive academically, but the long-range effect of the ban could be a university system "all white and Asian American.... We show no sensitivity to Blacks, Latinos, Eskimos, Indians, you name it." He says that outreach is worth doing, but "looking into lifestyle, poverty ... that's simply a game play of those who voted for 209 and [the regents' resolution]. The truth is there is not a level playing field."

Despite high emotions on both sides of the affirmative action debate, it may be too early to tell just how the Regents' decision, or Proposition 209, will affect the university system. Undergraduate admissions officials say they will be tracking minority numbers closely in the coming months, and some graduate departments will be reassessing recruitment methods. Arguments aside, nearly everyone agrees that a diverse graduating class is essential for business and the professions in a state with such high minority populations and that a mix of racial and ethnic groups on campus is essential to a rich college experience.

Most would also agree that achieving this diversity means doing better than admitting one Black student a year to Boalt Hall.



* URM's in this graph include African American, Chicano/Latino, Native American only.
Source: University of California

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Southern Exposure

perspective

by Sherry Bebitch Jeffe

Family feud

"Don't get mad; get even."

It's an old political maxim. And Orange County District Attorney Michael Capizzi has felt its sting.

Last September, the California Republican Party held its convention in Anaheim, smack in the middle of Capizzi's own back yard — and the state's most Republican county. But Orange County's top prosecutor, and near-certain candidate for the GOP nomination for attorney general, was virtually shut out of the event. His most public sighting was at a tiny, low-key gathering of Republican moderates.

What happened to Capizzi sends a discomfiting message to Republicans struggling to come to terms with their party's need to expand and diversify its base to remain competitive in a California where demographics are changing and partisan loyalties are fraying. Capizzi's chief rival for the GOP attorney general nomination nod, David Stirling — on leave as Dan Lungren's chief deputy attorney general — was awarded a committee chairmanship and a turn in the prime-time convention spotlight. But party officials couldn't even find room for Capizzi to set up a campaign table in the hotel lobby, where myriad candidates, organizations, interests and vendors — including "The Ultimate Campaign Management Software" — hawked their wares.

GOP State Chair Michael Schroeder, another Orange County Republican — and no fan of Capizzi — was not shy about why the DA was frozen out. "We had a lot more requests for vendor tables than we had space," Schroeder told the *Orange County Register*. "So when we made the first cut, it ought to be people who have been condemned by the party and told to resign."

Capizzi, you see, had been the center of another nasty fight at the party's February meeting, where a resolution was passed stating that he should resign his post. The move was an angry response to Capizzi's prosecution of GOP Assemblyman Scott Baugh and Republican campaign aides for election-law violations. Congressman Dana Rohrbacher (R-Huntington Beach), whose former campaign manager — and now wife — was among those indicted, called Capizzi's investigation "reminiscent of the way Nazis and gangsters act" against their political foes.

The bad blood has spilled over into pre-primary skirmishing. Stirling argued such prosecutions constitute an abuse of power of Capizzi. "There are certain violations of law that are of a technical nature," Stirling told reporters at the Anaheim convention, "but it is important that we not elevate certain possible violations of law into felonies."

Hmmm. This line of argument smacks of one of the Democrats' key defenses against the appointment of an independent counsel to examine White House fund-raising calls. That spin could trip up a GOP candidate for the job of California's top prosecutor!

Capizzi, for his part, marched through Anaheim pointing to early polling and contribution figures that showed him ahead of Stirling. Of his convention snub, he chortled that he "saved $200 for not having a table and got $200,000 worth of free publicity." Sounds rather like a round of "nah-nah-nah" among members of a dysfunctional family!

The brouhaha surrounding Loretta Sanchez's defeat of then-Representative Bob Dornan has contributed to the dicey contention among Orange County Republicans. Dornan's push to overturn Sanchez's 1996 election has riled moderate GOP women, who supported Democrat Sanchez over the conservative, anti-abortion incumbent. Dornan's harsh rhetoric and combative demeanor have also caused some problems within the party hierarchy. Chairman Schroeder has been in the awkward position of serving as the former congressman's attorney in the election dispute at the same time he touts the GOP's "ethnic outreach" program.

As long as internecine warfare and the Dornan-Sanchez battle consume Orange County Republicans, state party leaders will find themselves hard-pressed to fashion a winning game plan for 1998. It used to be that, as Orange went, so went state GOP political fortunes. That's changing, with the attrition of new GOP registrations, the increasing clout of swing voters in inland California and the recent push of new Latino voters, aligned primarily with Democrats.

Nonetheless, Orange County is still home to about 12 percent of the state's Republicans. And conventional wisdom says, to win statewide, a GOP candidate needs to come out of there with a vote-margin of at least two to one. Within the county, George Urch, a strategist for former Assemblyman Tom Umberg (D-Garden Grove), told the *Los Angeles Times*, "If the Republican establishment closes ranks behind someone, they don't need Democrats. If they're split, they look to the middle of the Democratic Party. What Republicans don't like to admit is that they can get beat in close races without Democratic votes."

Democratic support in Orange County partisan races remains elusive, particularly among pro-choice moderates and new Latino voters who have been alienated by the Republican Party's stance on immigration and affirmative action initiatives. That threatens the state GOP electoral calculus. And it frames a new political maxim: As long as Republican movers and shakers in Orange County continue to stay mad at one another, the California GOP risks becoming the odd party out.

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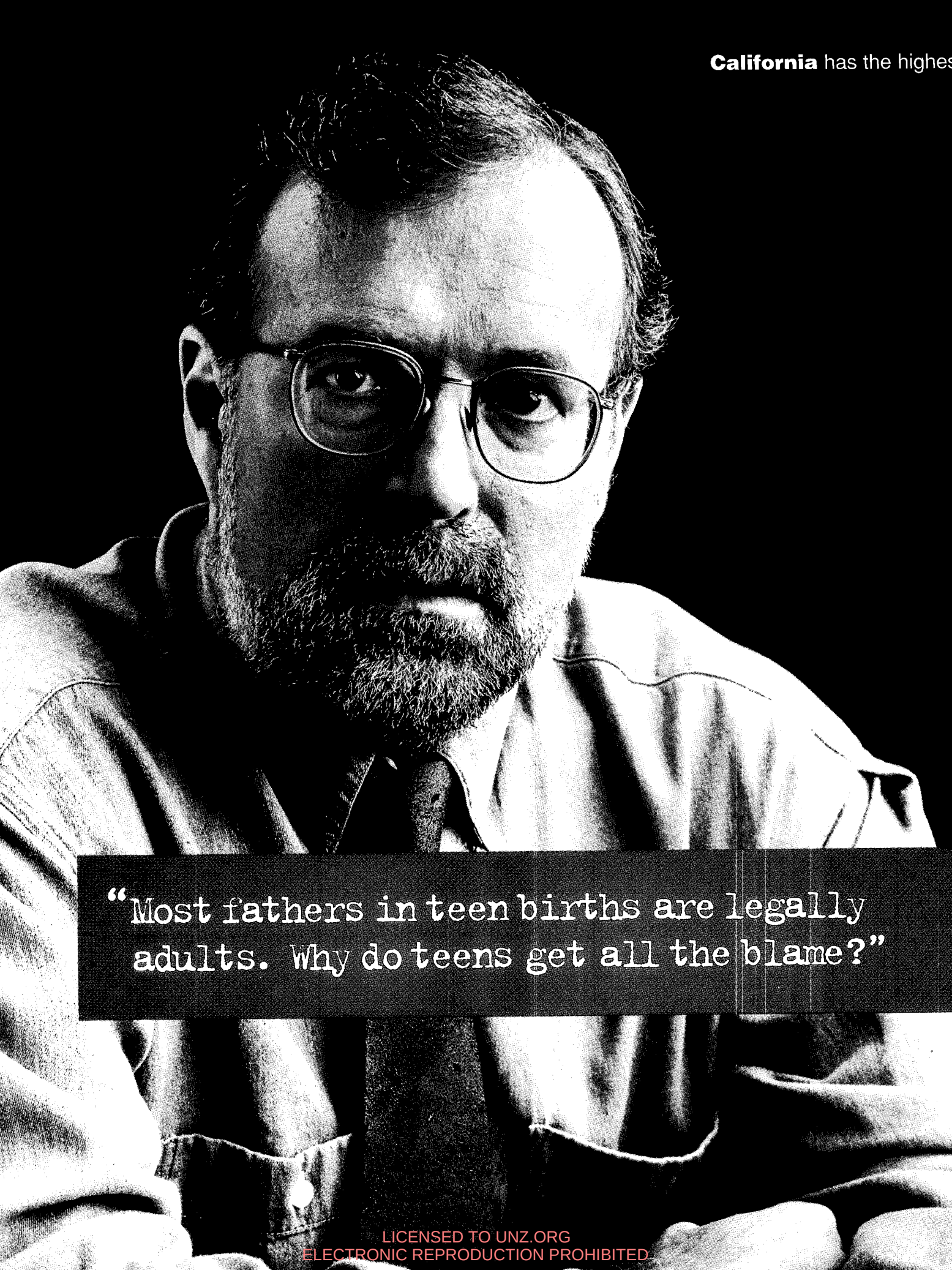

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een pregnancy rate in the industrialized world. This series asks **why**...and what we should do.

Teenage pregnancy upsets many adults because they think teens are irresponsible. Yet the young men implicated in most teen pregnancies are adults themselves.

Men older than 20 father half the births to minors in California, hardly a matter of 'children having children.'

To understand teen pregnancy, we need to pay as much attention to these 'invisible men' as we pay to their visibly pregnant partners.

***FACT:** Both parents are under 18 in only 8% of teen births.*

There's no Great Divide between teen and adult sex. Adults have sex with teens.

How disturbed should we be about age differences in sex? After all, 21-year-old men and 17-year-old girls have been pairing up throughout American history.

But coercion is a different story. The younger the girl, the larger the age difference between her and her male partner—and the more likely she has been coerced.

Sixty percent of 14-year-old girls labeled 'sexually active' report they were raped or forced to have sex. Teen mothers are more likely to have suffered sexual abuse as children than teens who do not give birth.

Society's course is clear in such cases. We must punish men who commit sexual abuse and rape.

And we must protect younger teenage girls rather than blame them for not 'abstaining.'

Mike Males, a youth advocate and doctoral student at UC-Irvine, is author of *The Scapegoat Generation.*

Law enforcement won't arrest teen pregnancy.

While coercion is more common than we like to think, the majority of teen girls with older partners are in voluntary, consenting relationships.

And here the answers are less clear.

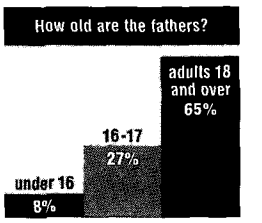
Prosecuting these men for statutory rape will not prevent unintended pregnancy. Perhaps the answer lies in demanding the same degree of sexual responsibility from adult men as we now expect from adolescent girls. Merely shifting society's blame from one to the other won't change personal behavior.

Don't scapegoat young women. Don't write off young men.

If we want young couples to make responsible choices, we as adults must create the conditions leading to lower rates of unintended pregnancies.

Want teenage girls to be more independent? Enable them to develop career skills that rival their male peers.

Want young men to take responsibility? Include them in the contraceptive and parenting programs now focused solely on young women.



***FACT:** Adults father two out of three births to 15-year-old girls.*

Want young fathers to support their children? How about restoring jobs that pay more than minimum wage, enough to feed and house a family?

Of course it's easier to keep on blaming teens than to critically examine how adults neglect and take advantage of the young.

But isn't it time for a new approach?

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Teen pregnancy is an adult problem.

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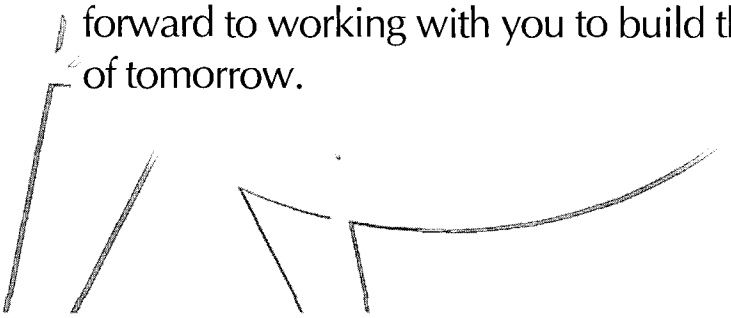

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The Bottom Line

commentary

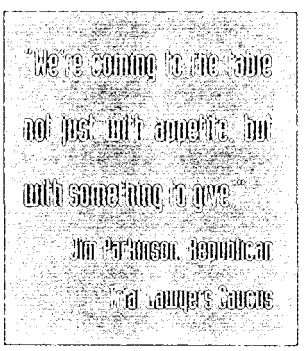
by Susan Rasky

Wayne's world

Cozying up to the Consumer Attorneys of California, better known as the very Democratic trial lawyers, probably wasn't quite what state Republican Party officials had in mind when they promoted "diversity" as the theme of their fall convention.

But the VIP convention reception hosted by a newly-formed Republican Trial Lawyers Caucus certainly seemed a more promising kind of 1998 outreach that the "Pride in Diversity" convention breakfast that featured Idaho congresswoman Helen Chenoweth recounting the battle of Fredricksburg.

Chenoweth, whose selection by party officials gives new meaning to the phrase politically tone deaf, might have remained a mere embarrassment had she stuck to the Civil War. But by the time she got around to discussing the GOP's affinity for "Afro-Americans" and "Orientals," state Treasurer Matt Fong had departed and Assemblyman Rod Pacheco (R-Riverside), seated at the head table, was visibly wincing.


"We're coming to the table
not just with appetite, but
with something to give"
Jim Parkinson, Republican
Trial Lawyer's Caucus

Trial lawyers, by contrast, appear to understand the potential of a GOP big tent even if the party's hapless leaders haven't figured out how to pitch it yet. In addition to underwriting the convention reception in honor of U.S. Senator and maybe presidential contender Fred Thompson, himself a trial lawyer, the roughly 100 GOP attorneys who signed up for the new caucus raised $22,000 for state party coffers.

There is presumably lots more where that came from for the GOP legislative and statewide candidates being peppered to rethink their reflexive opposition to the trial bar's agenda. "We're coming to the table not just with appetite, but with something to give," says Jim Parkinson, a Palm Desert attorney with impeccable Republican credentials who is serving as co-chair for the Republican-only caucus. "We want to be players."

Credit for the smooth convention debut belongs in part to conservative GOP consultant Wayne Johnson, who signed on with the Consumer Attorneys of California several months ago to begin developing a Republican presence for the organization. Johnson, like Parkinson, says he has been arguing for nearly a decade that it is politically foolish and ideologically nonsensical for Republicans to have demonized the trial lawyers.

"What are we, as the Republican Party, the party of free enterprise doing supporting fee caps?" he asks. "In effect, we became estranged from our own ideology, and the trial lawyers came to see their own best interests as served by a Democratic majority. A whole basket of issues that shouldn't be partisan became part of the Democratic agenda."

And part of the Democratic money machine. In the 1996 general election, the Consumer Attorneys of California contributed in excess of $2 million to legislative races on behalf of Democrats. No money went to Republicans. According to CAOC president Dave Casey, an additional "10 to 12 million dollars" went to defeat the package of tort reform measures on the March 1996 initiative ballot — measures managed, incidentally, by Democratic consultants Bill Carrick and Richie Ross. With all due respect to ideology, that may explain at least a bit of Johnson's determination to get a GOP foot, specifically his own, in the door. Ross has been on retainer to the organization since 1994.

Aggressiveness — some might call it arrogance — has long been part of the trial lawyers' image in Sacramento, an outgrowth of a lobbying strategy focused on killing legislation that threatens their interests rather than advancing an active agenda. But flush with confidence after helping Democrats retake the Assembly last year, CAOC decided to flex its muscle in the most recent session by pushing, among other measures, a bill to remove the $250,000 fee cap on medical malpractice damage awards for pain and suffering.

When it became clear that even Democrats, especially freshmen Democrats, were balking, the bills were pulled and will come to the floor next January. The legislative fiasco seems to have served as something of a wake-up call about over-reliance on Democratic support, giving new weight to Johnson's entreaties about cultivating Republicans.

Indeed, the trial lawyers have been slow to adopt the approach of groups like the California Teachers Association which for some years has contracted with political consultants from both sides of the aisle. And at least for now, they seem a lot more interested in the GOP than the GOP is in them.

Assembly Republican leader Bill Leonard says his door is open. "We like people who support us, and I need help from everybody I can get." Leonard also says he's sympathetic — in principle — on the issue of caps. "I have said contingency caps are like wage and price controls, and I don't like them either. I have opposed bills that have caps as their main feature, though I have supported broader tort reform bills."

Even if Johnson makes headway in convincing Republicans to return to their ideological roots on tort issues, he will have to deal with the trickier problem of assuring party pragmatists that playing ball with trial lawyers doesn't alienate the GOP's traditional funding base — all those major corporate contributors who don't like getting sued.

In the meantime, maybe he can convince the Consumer Attorneys of California to take a lesson from their new GOP caucus members who had the splendid good sense to call themselves trial lawyers.

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Poison

Negative campaigns have always been a part of the political landscape. Are they getting worse, and do they threaten the very fiber of the democracy?

Editor's note: Political consultant Victor Kamber has written a provocative book — Poison Politics — *that explores the nature of the modern political campaign, and especially its use of negative advertising. Kamber, who mostly represents Democrats, tries to answer the question: Are negative campaigns destroying democracy? Kamber is from Washington, D.C. What follows is an excerpt from his book.*

Imagine a young man who comes from an aristocratic family, a clan with a long and great history, but one that also has some dark secrets. There is madness, alcoholism and scandal in the family past, but the young man is charming, self-confident, visibly ambitious. He was a lackluster student in college who, after a brief fling with the law, went into politics. In politics, he is sometimes manipulative, always forceful, often successful. His position on the issues is usually vague or unformulated, at least until he can gauge public opinion, and he repeatedly changes his stance on several of the crucial issues of his time. His wife and he are so estranged that she lives on a completely separate estate. There are rumors she is a lesbian. The politican has had a long-standing affair with a young woman and other dalliances as well. He is physically disabled, unable to walk under his own power. He smokes, drinks and sometimes tells off-color jokes.

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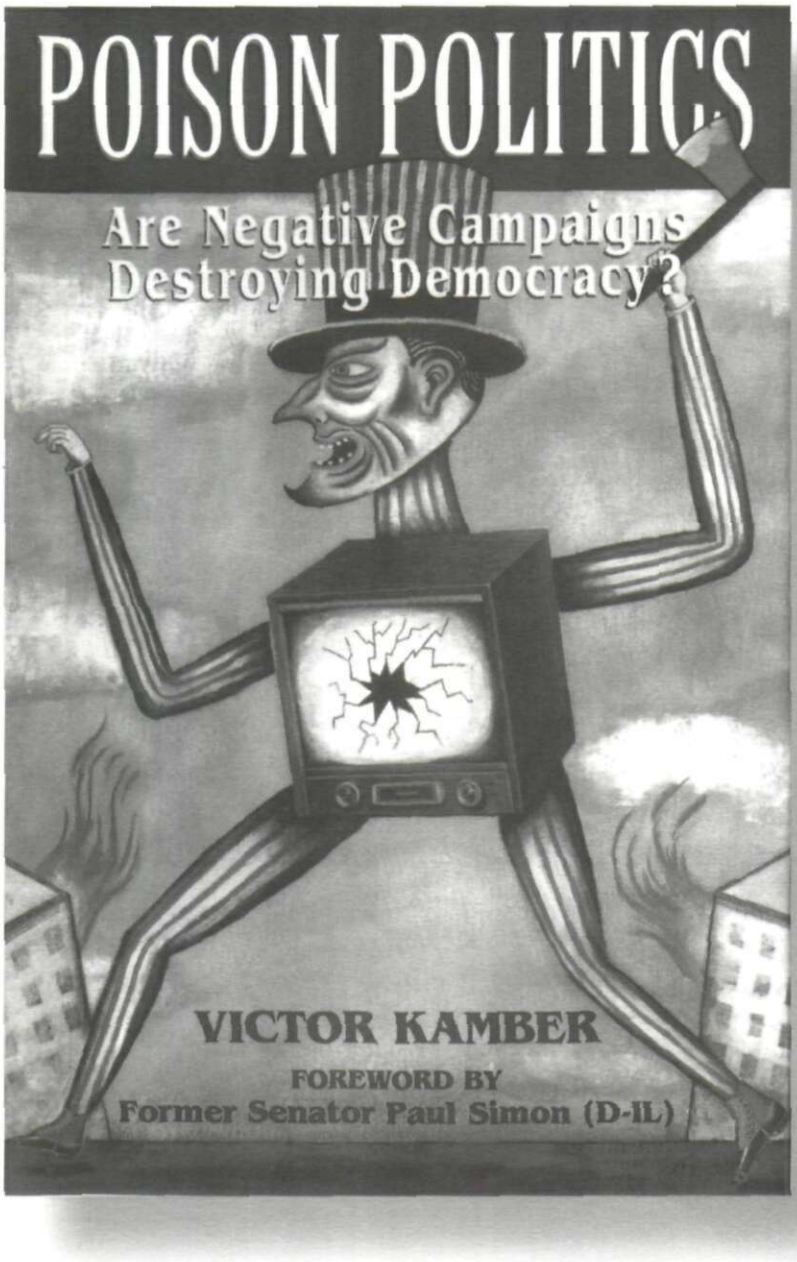
politics

By Victor Kamber



This same man, Franklin Delano Roosevelt, was the greatest president of our century. Whether one agrees with him on all the issues, or on his handling of certain problems, Roosevelt was an immensely successful national leader, the very model of a modern president. He left a legacy of strong and charismatic leadership, against which all subsequent presidents have been measured.

Yet as this century draws to a close, its greatest president would today be utterly unelectable. Faced with questions about his personal life, battered by speculation about his physical condition, exposed as a manipulative and often tyrannical politician, Roosevelt would not fare too well in today's free-for-all climate of media scrutiny.

Roosevelt was a genius of democratic rhetoric. The man who studied classical rhetoric at Harvard and absorbed the sermons of Endicott Peabody at Groton was able to explain complex issues in plain language that everyone could understand. He was capable of describing great threats facing the country and then delineating his often-radical approaches to them in a way that was comprehensive and comprehensible, interesting, yet inspiring.

FDR spoke a language of inclusion and inspiration. Phrases like "a day that will live in infamy" and "we have nothing to fear but fear itself" have entered our common language, and their potency keeps them from becoming empty cliches. In some ways, his words were as important as his policies. But while his political legacy endures in such programs as Social Security and minimum-wage laws, his rhetorical legacy fades away. Right now, there are no signs of FDR's rhetorical mantle being assumed, or even aspired

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to, by any contemporary politician. And the mood of the public, the media and political professionals is such that anyone who tried would be answered with ridicule.

In a democracy, politics is dialogue. The way we talk to each other determines the way in which we are governed. If we cannot discuss issues of substance, we cannot resolve the problems facing us. If we cannot use rhetoric to unite and inspire us, we will remain divided and dispirited. If we cannot talk to each other in a responsible manner — if we cannot simply get along — we will be unable to create the necessary comity that sustains a functioning democracy.

These days, we talk to each other through the media, particularly television. If we are to improve our democratic rhetoric, we have to change the way we talk to each other on television. Currently, it is the pits. Too many political campaigns are endless barrages of bizarre accusations, silly name-calling, ridiculous charges, even more ridiculous counter-charges, scandal, sleaze, smears and outright lies. The media report it all with a sneering cynicism. And the voters stand on the sidelines, watching the whole ugly spectacle as if it were just another tabloid television show.

Over the past 40 years, American politics has undergone an almost revolutionary transformation. The change has occurred so rapidly that we have not had the chance to think out how it has affected not just the form of our politics, but also its content. The rise of television, the increasing power and independence of the press, the diminishing power of political parties and the ascendance of "entrepreneurial" politicians, the increasing cost and sophistication of political communication, and the escalating tone of negativity in our campaigns all are recent and related developments.

In a democracy, politics is dialogue. The way we talk to each other determines the way in which we are governed.

But the rise in negativity is not simply driven by technology. Negative politics has always been with us, sometimes more venemous and irresponsible than it is today. Our current problem is not just the level of aggression and irresponsibility in our political dialogue, but also its predominance in the absence of anything else. Previous eras saw severe personal attacks on political candidates, but they also saw detailed and sometimes inspiring deliberation over the issues. Our present political discourse is nothing but spleen.

For all the complaints about the increased vitriol and vapidity in our political debate, we have not come any closer to a solution. That is because the problem has been stated in erroneous terms. There is no shortage of critics of negative advertising. Unfortunately, most of those critics come from one of two schools — the purists and the paranoids. Both oversimplify the debate and ultimately miss the point.

The purists believe that negative ads debase democracy, and they are half right. They also think, however, that democracy has degenerated from some golden age of enlightened rhetoric — which even a cursory look at the history of campaigning proves is a sentimental exaggeration — into a morass of negativity and scandal-mongering. The 1988 presidential campaign was called the "sleaziest in history," which shows a woeful ignorance of the knockdown campaigns of the 19th century. The purists also fail to recognize the legitimate use of negative messages in political debate.

If the purists are half right, the paranoids are all wrong. They believe that slick campaign operatives use sophisticated techniques of mass persuasion to trick voters into voting against their own best interests. Whole forests have been denuded in order to print the countless books and articles attempting to prove that, somehow, American elections are a sham, that political consultants are evil geniuses who, through their understanding of the media of mass communication, sell candidates the way the evil geniuses of Madison Avenue sell soap.

This posture vastly overstates the intelligence of political consultants. We are smart, but we are not geniuses, and most of us are not evil. Half of all political campaigns are failures (even more in primaries) and no one, not even maestros such as Roger Ailes or James Carville, wins all the time. Voters are more informed and autonomous than the paranoids give them credit for, and more often than not, their electoral decisions are not based on smoke and mirrors of political spectacle but on the issues. Far from being easily manipulated, the American voter is politically skeptical and sometimes maddeningly independent.

Just as the paranoids underestimate the American voter, they overestimate the power of television. They see the medium as a malign technology, by nature manipulative and dishonest, when, in fact, television is simply a tool — a powerful and potentially transformative tool — but one that is inherently neutral. Television may be a positive or negative force, depending on how it is used. The medium is *not* the message — the message is the message. Unfortunately, the great promise of television remains unfulfilled, and what could be a powerful engine for democratic deliberation has become increasingly trivial and sleazy. Too often, television blurs the distinctions between fact and fantasy, information and entertainment, news and scandal, public interest and public salaciousness; however, the fault lies not in the technology but with those who operate it.

The problem with both the paranoid and the purist arguments is not just that they are mistaken, but also that they are profoundly elitist. Somehow, the American voters have no control over what they do; they are involved in politics only "symbolically" or as "dupes" in some grand conspiracy, and the choices they make in the voting booth either are coerced or irrelevant. In short, the paranoids and purists have little faith in those who actually make decisions in this democracy.

Some defenders of negative ads argue that winning is all that matters in electoral politics, that strategy and tactics may only be judged by their effectiveness, not their ethics, and anything is permitted so long as it gets a candidate elected.

"We had only one goal, to help elect George Bush.

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That's the purpose of any political campaign. What other function should a campaign have?" said the late Lee Atwater, who ran that notorious 1988 campaign.

Atwater's attitude is not restricted to cynical political consultants. The bottom-line, win-at-any-cost competitiveness that pervades society has made us a cruel and divided nation. It has turned us into creatures of the marketplace, judged only by what we make and what we buy. Greed and ambition, unrestrained by civic virtue or personal responsibility, have resulted in a diminished public realm and a harsh and selfish politics. Now that capitalism has proved itself to be the most efficient means of economic organization, its values are left unquestioned, and its chaotic and even violent disruptions of common life are being left alone to wreak havoc among us. Must we learn all over again the lessons of the last century and a half, that the market, while a useful mechanism for economic growth, will create great inequities, dislocation and suffering if it is not ameliorated politically? In the same way that the economic market, left to its own devices, can be a destructive force, so, too, the political market, if not guided by higher principles, will cause irreparable harm. If campaigns are ruled by no other standards than victory, then we will end up with political leaders who are cynical, opportunistic, dishonest and short-sighted. And in a democracy, you get the leaders you deserve.

But there is an argument to be made in defense of responsible negative advertisements. The voters need to know the whole story, and solely positive arguments do not provide it. A campaign is not likely to willingly offer negative information about its own candidate, and yet that is essential information for the voters to make an informed decision. So it is up to candidates to point out their opponents' shortcomings.

Negative messages are not only an essential aspect of political argument, they also can be a public service. This applies not just to comparative discussion of the issues, but also to the broader and more amorphous questions of character. Issues of character are often of more lasting importance than positions on ephemeral issues.

For some candidates, negative campaigns are the only option. How can a political neophyte challenge a long-term incumbent without running against the incumbent's character and/or record? Democracy is supposed to hold politicians accountable for their actions, and the mechanism for this accountability is the ballot box. If negative information about them is withheld or suppressed, how would the voters ever be able to make an informed decision and give corrupt or incompetent candidates their comeuppance?

But negative arguments are only one part of political rhetoric, and negative ads should only be one component of an integrated campaign. The problem today is that too many candidates are eschewing the traditional means of campaigning — direct contact with voters and opponents such as speeches, rallies and debates — and instead opting for a vegetable-garden strategy, throwing rotten tomatoes at their

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The ideal candidate will share the County's vision and commitment to a client-based, systemic approach to human services and will be a leader in the health or social services field. In addition, candidates must have significant leadership experience in a diverse and complex organization. An advanced degree in health administration, social work, public administration, or a related field is expected.

The salary range for the position is $101,217 to $176,273, plus an outstanding benefit package.

Detailed brochure is available. Final filing date is Friday, December 19, 1997. Submit resume and cover letter with current salary and five work related references to:

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COUNTY ADMINISTRATIVE OFFICER

COUNTY OF SAN LUIS OBISPO

San Luis Obispo County (population 260,000), is seeking an experienced executive to serve as the County Administrative Officer. San Luis Obispo County, located on the beautiful Central Coast of California, has approximately 2450 staff and a FY 97-98 combined budget of nearly $ 237 million.

The ideal candidate is a county executive / administrator, assistant or senior executive from a comparable public or private sector organization with a proven track record and a passion for results, innovation, quality and customer service. Candidates should possess outstanding problem solving, communications and consensus building skills and the ability to work in an effective partnership with the Board of Supervisors.

The salary for the position is open and negotiable. In addition, the County provides an excellent benefit program.

The final filing date for the position is Friday, November 21, 1997. An information brochure is available.

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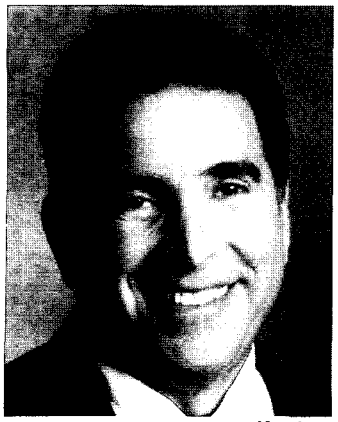
Kamber

adversaries from the safe confines of a television studio. The tenor of campaigning becomes ever more shrill and negative as opponents hide behind technology instead of engaging each other directly.

We cannot, indeed we should not, get rid of negative ads. They are an essential part of political argument. But we cannot allow our political debate to grow harsher and more trivial.

There are two standards to which we can hold political messages, both positive and negative, and these are truth and relevance. Without a standard of truth, political discourse becomes mere verbal hostility, and then we might as well go back to beating each other with clubs. After a fact can be proven true or an argument made defensible, there remains the question of whether it is relevant and belongs in the debate.

There is a big difference between making a responsible negative argument, based on the facts, and slandering an opponent. One is a viable form of political argument, and the other simply is trash talk, or poison politics. Poison politics is irresponsible, unsubstantiated, erroneous, misleading, unfair, irrelevant, divisive, hateful, spiteful, crude and degenerate. Poison politics divides rather than unites. Poison politics includes not only slander and abuse, but also the more subtle forms of negativity, such as the use of racial, ethnic and cultural polarization; the demagoguery of hatred and greed; and the increasing cynicism with which our system is viewed. It creates an ugly cycle of anger, distrust and cynicism. Poison politics is the political equivalent of violence. And like violence, it has been around as long as mankind.

Politics has always been rough business, and the notion that American politics was once a pristine undertaking, animated by articulate rhetoric and executed with flawless high manners, is not just fanciful, it is delusionary.

But that does not excuse the loathsome standards to which contemporary political campaigns have descended. To look back on the past is helpful, even essential, to understand where we come from and who, in a larger sense, we are. But just because the campaigns of history had their moments of ignominy does not mean that it is all right if current electoral contests do the same. In fact, we should hold ourselves to higher standards, because democracy requires continual striving to improve, not just the results of our politics but the manner by which we transact it.

Rostrum letters

Tom Hayden

I don't know what the *California Journal's* position was in 1970 (when you started) on the Vietnam War but when I returned from Vietnam in 1968 I learned about Tom Hayden's opposition to it. Yes, Hayden has been involved in a lot of issues — civil rights in the South, the Vietnam War, poverty in Newark, the student movement, the fight against nuclear power and hundreds of issues as a legislator. Reading the *Journal's* remark (October 1997) that Hayden has a short attention span on issues makes me conclude that the *Journal* has a short memory. Hayden will be remembered for his good (and right) fights long after he's gone. I have a hard time remembering what the *Journal* reported last month.

BOB MULLHOLLAND
Chico

Proposition 13

Your recent commentary on "Fairness for Taxpayers" (see "Perspectives on Proposition 13," *CJ*, September 1997) is rank sophistry. Recent purchasers of property pay disproportionately in property taxes, easily sixfold more than their neighbors, with no enhancement of public services or facilities. Clearly that is not fair by any stretch of the imagination. Property owners' taxes have never fluctuated wildly as a result of vagaries in the real estate market. The county tax collectors set a tax rate to yield a total tax revenue to meet budget requirements of elective bodies. These public budgets were the only thing that drove total and individual property-tax liabilities. If those budgets were unacceptable to the electorate, the democratic thing to do was throw out the governing bodies, which did happen now and then.

The worst feature of Proposition 13 is that it stripped local elected bodies, which are readily accessible to the neighborhood spirit and will, of any effective authority over the integrity of local programs. It disenfranchised that large body of citizens who are vitally interested in local affairs. It has led to creation of a plethora of appointed governing bodies and imaginative public financing schemes in which the voter has no control. The evils arising from Proposition 13 are too numerous to be counted.

R.A. BLAIS
Cupertino

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THE HEADWATERS AGREEMENT

A win for all concerned . . .

On September 28, 1996, — more than a year ago — an historic agreement was reached to permanently preserve the virgin old growth Headwaters and Elk Head Springs Forests in Northern California. The agreement culminated many hours of good-faith negotiations by the United States and California governments and the property owner, The Pacific Lumber Company, and its parent, MAXXAM Inc.

Since then, much work has been accomplished . . . and much remains to be done. Pacific Lumber has prepared, submitted, and reworked habitat conservation and sustained yield management plans, and the federal and state governments are working to provide the funds for the acquisition. Once all of this is accomplished, 7,500 acres of what is now privately owned forestland zoned exclusively for commercial timber production will be set aside and preserved as a nature area.

The agreement represents a substantial compromise by all parties, but the result is a "win" for all concerned: Ancient redwood and Douglas fir trees are saved . . . wildlife habitat is protected . . . good-paying jobs are preserved . . . a hard-pressed local economy is strengthened . . . private landowners are justly compensated . . . shareholder interests are served . . . and a decade-long controversy is successfully resolved.

The people of Pacific Lumber and MAXXAM are committed to doing everything we can to bring this historic agreement to a successful conclusion. In so doing, we are carrying forward the wishes of a number of people, organizations, and publications.

John A. Campbell, President & CEO
The Pacific Lumber Company

"A promising deal has been struck that could resolve a 10-year struggle . . .
This plan would be the most ambitious public-private effort so far to protect an entire ecosystem . . ."
— NEW YORK TIMES EDITORIAL

"This agreement is fair and reasonable . . .
(It) offers our last and best hope to preserve these magnificent ancient forests."
— U. S. SENATOR DIANNE FEINSTEIN (D - California)

". . . The framework of the deal we have struck is a good one . . . sound both ecologically and financially . . . We are headed in the right direction."
— JOHN GARAMENDI, DEPUTY SECRETARY OF INTERIOR

"This agreement protects the health of our local economy, the health of our timber families, and the health of our national heritage."
— U. S. CONGRESSMAN FRANK RIGGS (R - California)

"This is an extraordinarily well-crafted settlement of one of California's most intractable resource issues . . . It is fair to the private landowner. It is responsible with respect to the cost to the taxpayers of California and the United States. It is environmentally justifiable in every respect."
— DOUGLAS WHEELER, CALIFORNIA SECRETARY FOR RESOURCES

"The agreement is so constitutionally pristine — i.e., reflects so perfectly the Fifth Amendment's mandate for the taking of private property for public use — that it could have been engineered by James Madison himself."
— DEFENDERS OF PROPERTY RIGHTS, WASHINGTON, D. C.

". . . Mainstream politicians from both parties achieved something the activists alone could not. As extremists of the right and left should learn, finding workable solutions means striking a balance between competing interests."
— SANTA ROSA, CA, PRESS DEMOCRAT EDITORIAL

". . . The result could be an important victory for forest and species protection."
— SACRAMENTO, CA, BEE EDITORIAL

"The time to protect Headwaters is now. If we all work together, it can still be saved."
— HAL ARBIT, A CO-SPONSOR OF THE FORESTS FOREVER INITIATIVE

". . . The agreement the federal and California governments struck with Pacific Lumber to save the last unprotected stand of ancient California redwoods is a good one."
— AUSTIN, TX, AMERICAN-STATESMAN EDITORIAL

PALCO

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SCOTIA, CA

Healthy Forests for a Healthy Environment

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Washington Notes

perspective

by Mark Sandalow

Beltway exile

The political almanac shows that California has 52 members in the House of Representatives. The almanac does not tell the whole story. There is another emissary from the Golden State who has generated as much controversy under the Capitol dome this fall as all the elected members combined. He has been part of the Washington scene for more than two decades. To the inside-the-beltway crowd, he is synonymous with Southern California the way Dan Rostenkowski is to Chicago or Tip O'Neill is to Cambridge.

That man, of course, is Orange County's self-described "Congressman-in-exile," the honorable Robert K. Dornan.

Never mind that Loretta Sanchez was seated by the House as the duly elected Congresswoman from California's 46th Congressional District. From his perch across the Potomac in Northern Virginia, Dornan — who says the election was stolen from him — is planning his return to Congress, and not missing a beat in his role as the firebrand of the right. There are guest host appearances on Ollie North and Alan Keyes' radio shows. There are speeches before young Republicans on Capitol Hill. There are appearances before conservative gatherings from coast to coast, including a triumphant return last month to Anaheim before the California Republican Party. And until he got into it with a New Jersey congressman, there were even a few appearances on the House floor.

"It feels like I never left," Dornan declared during a recent interview in which the 64-year-old former Air Force pilot expounded at length on the 'World According to Bob.' "I've got five or six fascinating chapters in my life, and the best chapter is yet to come. I can make my mark on the 105th Congress in a year, and then I'm ready to go off into the sunset."

Anyone who forgot that Dornan was still on the scene got a jarring reminder on the afternoon of September 18. Exactly what happened is a matter of dispute. What is known is that Dornan was on the House floor — a privilege granted to all former members — when New Jersey Democrat Robert Menendez intimated that his efforts to unseat Sanchez were an attack on Latinos. According to Menendez, Dornan called him a liar, a coward, insulted his religious devotion, used language verging on obscenity, and challenged him to a fistfight. Dornan said Menendez is lying.

"I told him what he was doing was a vile, disgusting, anti-Catholic effort to brand a whole party...as racist," Dornan recalled without a hint of regret. As for the profanity: "My teeth were clenched when I said 'effort.' It was not fracking, freaking flapping — not a profanity, not a near-profanity," Dornan said. And the lying charge? "I never called him a liar on the House floor," Dornan said, indignantly defending his respect for the decorum of the institution. "I call him a liar now. He is a liar." After the incident, 289 members of the House, including 111 Republicans, voted to bar Dornan from the House floor.

At this writing, Dornan's fate is very much up in the air. The official vote tally showed Sanchez the victor by 984 votes, but Dornan never conceded. Evidence has mounted that there were fraudulent votes, some apparently cast by illegal immigrants, but how many is still a matter of dispute. Dornan insists the number is between 1500 to 3500, which would be enough to overturn the election. Democrats say the number is far less, and have taken to wearing orange "Free Loretta" ribbons on their lapels.

The House Oversight Committee is currently considering the matter, and could recommend anything from dismissing his claim to seating him outright, to calling for a new election. "I won on election night. I am the Congressman-elect," he growled in his gravely voice that flashes with equal parts pride and anger. And just in case the Republican-controlled Congress refuses to re-seat him, Dornan has filed papers to run against Sanchez in 1998.

In Washington, Dornan's ongoing presence is greeted with both amusement and consternation. The 64-year-old former Air Force pilot has become a caricature of himself, well aware that his indomitable rhetoric has a way of bringing emotions to the fore. "I love debate, I love controversy," Dornan barked. "I make no apologies for my style." He is itching to get back in the ring, claiming that "the worst demagogues on their side are getting away with bloody slander and calumny."

In real life, Dornan is more complicated than his stereotype. Few people know that he marched with Martin Luther King in 1963 and donated his congressional pay raises to an AIDS hospice. Dornan says he is misunderstood, in part because of the "lying, putrid, liberal press," and partly because even among his own colleagues there is a share of "dispassionate clerks," who "don't understand a warrior personality."

Still, at a time when the Republican Party — both in California and in Washington — is making a conscious effort to attract women and Hispanic voters, the idea of unseating a freshman Latina in favor of Dornan presents a serious public relations problem. "If she is unseated they have a ready-made martyr," Dornan says, outlining the problem. "If she is left alone, she is the giant killer."

Dornan suspects there are some who would like to see him quietly disappear, but he said "no one would dare suggest that to me." Asked if he ever considers just taking a fall, Dornan is charactieristically blunt: "Never."

"My dad was the boxing coach at my high school. My brother and I both boxed. Every movie I've ever seen, the guy who takes the fall is a pathetic loser. The guy who takes the fall is the scum of the earth."

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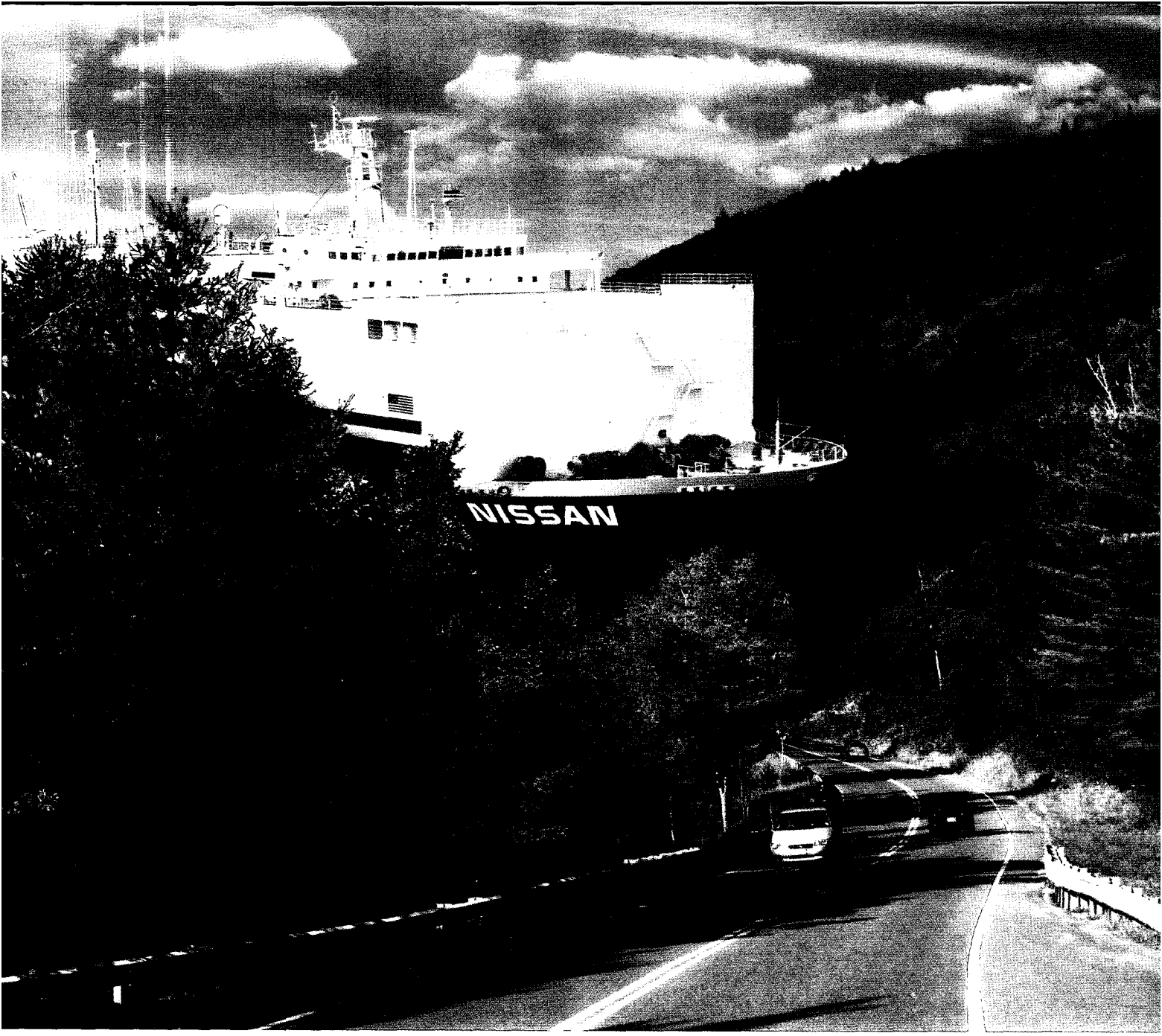

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*Nissans built using domestic and imported parts.

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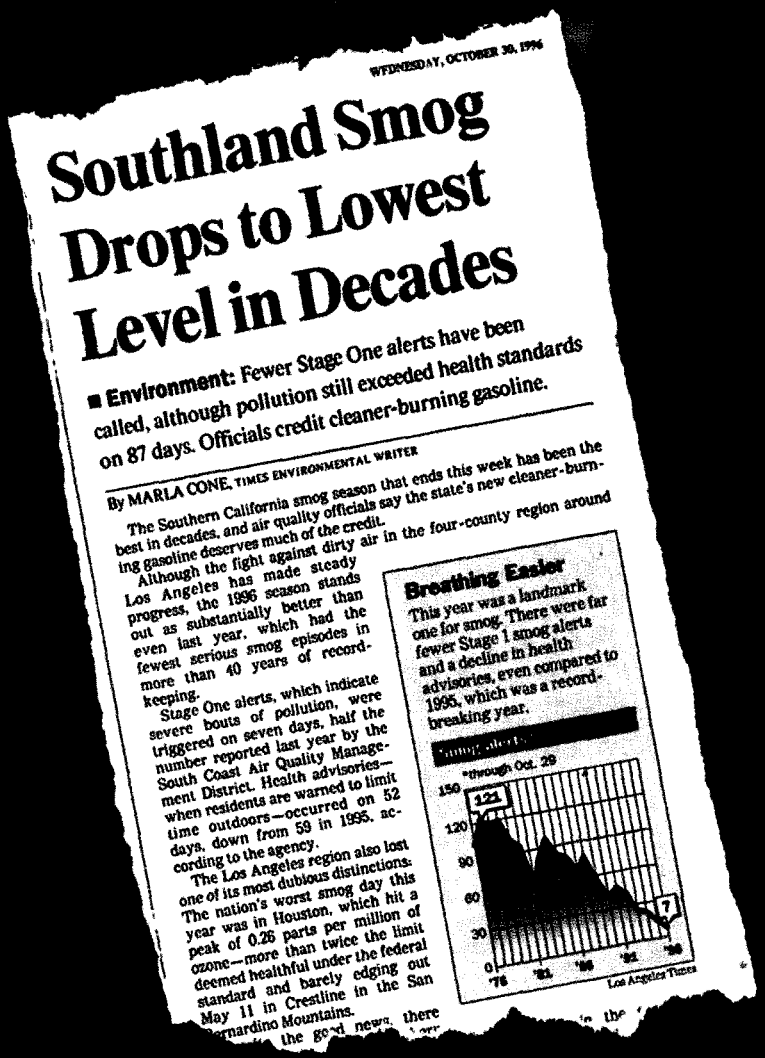

WEDNESDAY, OCTOBER 30, 1996

Southland Smog Drops to Lowest Level in Decades

■ **Environment:** Fewer Stage One alerts have been called, although pollution still exceeded health standards on 87 days. Officials credit cleaner-burning gasoline.

By MARLA CONE, TIMES ENVIRONMENTAL WRITER

The Southern California smog season that ends this week has been the best in decades, and air quality officials say the state's new cleaner-burning gasoline deserves much of the credit.

Although the fight against dirty air in the four-county region around Los Angeles has made steady progress, the 1996 season stands out as substantially better than even last year, which had the fewest serious smog episodes in more than 40 years of record-keeping.

Stage One alerts, which indicate severe bouts of pollution, were triggered on seven days, half the number reported last year by the South Coast Air Quality Management District. Health advisories—when residents are warned to limit time outdoors—occurred on 52 days, down from 59 in 1995, according to the agency.

The Los Angeles region also lost one of its most dubious distinctions: The nation's worst smog day this year was in Houston, which hit a peak of 0.26 parts per million of ozone—more than twice the limit deemed healthful under the federal standard and barely edging out May 11 in Crestline in the San Bernardino Mountains.

...the good news, there ... in the ...

Breathing Easier

This year was a landmark one for smog. There were far fewer Stage 1 smog alerts and a decline in health advisories, even compared to 1995, which was a record-breaking year.

...smog alerts

...through Oct. 29

We were there at the beginning. In fact, we *were* the beginning.

This front-page story in the Los Angeles *Times* was good news for all of us. The air in Southern California is cleaner than it was years ago. In fact, cleaner than it was less than a year ago. Officials credit the reformulated gasoline required in California as of June 1, 1996. ARCO pioneered this fuel back in 1989. We're proud that it's chasing smog away, as it was designed to do. And we're thankful to government regulators, auto designers, and the conscientious driving public who have helped make cleaner air a reality, for today and days to come.

ARCO

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